TITLE 28

MILITARY AND VETERANS

EMERGENCY PREPAREDNESS

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MILITARY

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EMERGENCY PREPAREDNESS

ARTICLE 1

Civil Air Patrol

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28-1-101. Colorado division of civil air patrol - publication - benefits.

(1) (a) There is created and established in the department of military and veterans affairs the Colorado division of civil air patrol. The division is a **type 1** entity, as defined in section 24-1-105. The mission of the division is to provide support for and facilitate the operation of the civil air patrol, Colorado wing, which is under the command and control of the duly appointed commanding officer of the wing. On and after July 1, 2004, the head of the division is appointed by the adjutant general acting on behalf of the governor and in consultation with the duly appointed commanding officer of the civil air patrol, Colorado wing. Warrants are drawn against appropriations made for the division upon vouchers issued and signed by the head of the division.

(b) All active officers in the civil air patrol, Colorado wing, including the duly appointed commanding officer of the civil air patrol, Colorado wing, shall be eligible to be appointed as the head of the Colorado division of civil air patrol by the adjutant general.

(2) Repealed.

(3) Publications of the division circulated in quantity outside the executive branch, to be paid for in whole or in part out of state-appropriated funds, shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

(4) Members of the civil air patrol, Colorado wing, shall be eligible for benefits under the "Workers' Compensation Act of Colorado". Premiums for such coverage shall be included in annual appropriations by the general assembly.

Source: L. 45: p. 253, §§ 1-3. **CSA:** C. 17, § 34. **CRS 53:** § 5-2-1. **C.R.S. 1963:** § 5-2-1. **L. 64:** p. 122, § 20. **L. 68:** p. 136, § 169. **L. 78:** (4) added, p. 279, § 5, effective May 5. **L. 83:** (2) and (3) amended, p. 840, § 62, effective July 1. **L. 90:** (4) amended, p. 571, § 58, effective July 1. **L. 96:** (2) repealed, p. 1272, § 205, effective August 7. **L. 2002:** (1) amended, p. 360, § 20, effective July 1. **L. 2004:** (1) amended, p. 1882, § 1, effective June 4. **L. 2022:** (1)(a) amended, (SB 22-162), ch. 469, p. 3416, § 185, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1996 act repealing subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 121, Session Laws of Colorado 2002.

(2) For the "Workers' Compensation Act of Colorado", see articles 40 to 47 of title 8.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

28-1-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Civil air patrol mission" means an actual emergency operational mission of the Colorado wing of civil air patrol that has been duly authorized under civil air patrol regulations, including, but not limited to, through the United States Air Force, the governor's office, or other political subdivision of the state that has the authority to authorize an emergency operational mission of the Colorado wing of the civil air patrol.

(2) "Member" means a member of the civil air patrol, Colorado wing.

(3) "Private employer" means an employer that is not the state or any political subdivision, municipal corporation, or other public agency of the state.

Source: L. 2008: Entire section added, p. 608, § 1, effective August 5.

28-1-103. Civil air patrol - discrimination prohibited.

An employer shall not discriminate against or discharge from employment any member of the civil air patrol because of such membership and shall not hinder or prevent a member from performing during any civil air patrol mission for which a member is entitled to leave pursuant to this article.

Source: L. 2008: Entire section added, p. 608, § 1, effective August 5.

28-1-104. Public employees - leave of absence.

(1) Any member who is an officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state and who is called to duty for a civil air patrol mission is entitled to a leave of absence from the member's office or employment for the time when the member is engaged in the civil air patrol mission without loss of pay, seniority, status, efficiency rating, vacation, sick leave, or other benefits. The leave without loss of pay that is allowed pursuant to this section shall not exceed a total of fifteen workdays in the leave year

established by the employer; except that such leave without loss of pay shall be allowed only if the required civil air patrol service is satisfactorily performed, which shall be presumed unless the contrary is established.

(2) The leave allowed pursuant to subsection (1) of this section shall be allowed only if the member returns to his or her public position the next scheduled workday after being relieved from service for the civil air patrol mission; except that leave shall be allowed pursuant to subsection (1) of this section if the member is unable to return to work due to injury or circumstances beyond the member's control and the member notifies the employer as soon as practicable, but prior to the next scheduled workday.

(3) A state agency or any political subdivision, municipal corporation, or other public agency of the state may hire a temporary employee to fill a vacancy created by a leave of absence allowed pursuant to subsection (1) of this section.

(4) Upon returning from a leave of absence allowed pursuant to this section, a member is entitled to return to the same position and classification held by the member before the leave of absence for the civil air patrol mission or to the position, including the geographic location of the position, and classification that the member would have been entitled to if the member did not take a leave of absence for the civil air patrol mission.

(5) A member who is an officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state, receiving a leave of absence pursuant to this section and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all of the rights accrued up to the time of taking the leave and shall have all rights subsequently accruing under such system as if the member did not take the leave. Any increase in the amount of money benefits accruing with respect to the time of the leave is dependent upon the payment of any contributions or assessments, and the right to the increase is dependent upon the payment of contributions or assessments within a reasonable time after the termination of the leave and upon such terms as the authorities in charge of the system may prescribe.

Source: L. 2008: Entire section added, p. 609, § 1, effective August 5. **L. 2009:** (1) and (2) amended, (HB 09-1315), ch. 312, p. 1694, § 3, effective August 5.

28-1-105. Private employees - leave of absence.

(1) Any member who is employed by a private employer and who is called to duty for a civil air patrol mission is entitled to a leave of absence from the member's private employment, other than employment of a temporary nature, for the time when the member is engaged in the civil air patrol mission. The leave allowed pursuant to this section shall not exceed a total of fifteen

workdays in any calendar year, and the leave shall be allowed only if the member gives evidence to the employer of the satisfactory completion of the civil air patrol service.

(2) The period of absence allowed pursuant to this section shall be construed as an absence with leave and without pay and shall in no way affect the member's rights to vacation, sick leave, bonus, advancement, or other employment benefits or advantages relating to and normally to be expected for the member's particular employment.

(3) The leave allowed pursuant to subsection (1) of this section shall be allowed only if the member returns to his or her private employment as soon as practicable after being relieved from service for the civil air patrol mission.

(4) The private employer of a member who takes leave from the member's employment in order to engage in a civil air patrol mission shall, upon the member's completion of the mission, restore the member to the position the member held prior to the leave of absence or to a similar position.

Source: L. 2008: Entire section added, p. 609, § 1, effective August 5; (3) amended, p. 1912, § 120, effective August 5.

28-1-106. Employer's noncompliance - actions.

If an employer violates any provision of this article, the aggrieved member may bring a civil action for damages or equitable relief or both. In any such civil action, the court shall award reasonable attorney fees and costs to the prevailing party.

Source: L. 2008: Entire section added, p. 610, § 1, effective August 5.

ARTICLE 2

Disaster Emergency Services

28-2-101 to 28-2-601. (Repealed)

Source: L. 83: Entire article repealed, p. 971, § 28, effective July 1, 1984.

Editor's note: This article was numbered as article 1 of chapter 24, C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions relating to emergency management, see part 7 of article 33.5 of title 24.

MILITARY

ARTICLE 3

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PART 1

GENERAL AND ADMINISTRATIVE

28-3-101. Definitions.

As used in this article 3, unless the context otherwise requires:

(1) "Active service" means full-time service on behalf of the state when ordered by competent authority.

(2) "Armed forces" means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard of the United States.

(3) "Board" means the Colorado board of veterans affairs.

(4) "County veterans service officer" means any person appointed to serve as such pursuant to section 28-5-801.

(5) "Department" means the department of military and veterans affairs created and existing pursuant to section 24-1-127, C.R.S.

(6) "Director" means the director of the division of veterans affairs.

(7) "Division" or "division of veterans affairs" means the division of veterans affairs created and existing within the department of military and veterans affairs.

(8) "In the service of the United States" and "not in the service of the United States" mean the same as such terms are used in the "National Defense Act of Congress", approved June 3, 1916, and amendments thereto.

(9) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown &Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(10) "Military forces" includes the federally recognized National Guard and any other organizations or components of the organized militia as may be created by the governor pursuant to federal or state law.

(11) "Military service" means service in any of the armed forces of the state of Colorado or the United States.

(12) "National Guard" includes the Army National Guard and the Air National Guard.

(13) "On duty" includes periods of drill and such other training and service as may be required under state or federal law, regulations, or orders.

(13.5) "Saboteur" means a person who intentionally destroys, damages, moves, or interferes with any property with reasonable grounds to believe that the act will interfere with the preparation of the United States or any state for defense or for war or with the prosecution of war by the United States.

(13.7) "Terrorist" means a person who has engaged in, or is suspected of engaging in, acts of terrorism, as that term is defined in 18 U.S.C. sec. 3077 (1), as amended.

(14) "Trust fund" means the Colorado state veterans trust fund created in section 28-5-709.

(15) "Veteran" means a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

Source: L. 55: p. 606, § 1. **CRS 53:** § 94-9-1. **C.R.S. 1963:** § 94-1-1. **L. 2002:** (13.5) and (13.7) added, p. 584, § 1, effective May 24; entire section R&RE, p. 343, § 2, effective July 1. **L. 2021:** IP and (2) amended (HB 21-1231), ch. 206, p. 1077, § 5, effective May 28.

Editor's note: Subsections (13.5) and (13.7) were originally enacted as (7) and (8), respectively, in Senate Bill 02-099 but have been renumbered on revision and harmonized with amendments to this section by House Bill 02-1413.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 121, Session Laws of Colorado 2002.

ANNOTATION

Law reviews. For article, "A Comprehensive Study of the Use of Military Troops in Civil Disorders with Proposals for Legislative Reform", see 43 U. Colo. L. Rev. 399 (1972).

28-3-102. Persons subject to military duty. (Repealed)

Source: L. 55: p. 606, § 2. **CRS 53:** § 94-9-2. **C.R.S. 1963:** § 94-1-2. **L. 75:** (1)(f) amended, p. 932, § 50, effective July 1. **L. 2002:** Entire section repealed, p. 584, § 2, effective May 24.

Cross references: For current provisions concerning persons subject to military duty, see § 28-4-103.5.

28-3-103. General provisions.

(1) In case the United States is at war or in case of any other emergency declared by the president or the congress of the United States or by the governor or the general assembly of this state, any organization, unit, or detachment of the military forces of this state, by direction of the governor and upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, terrorists, enemies, or enemy forces beyond the border of this state into another state until they are apprehended or captured by such organization, unit, or detachment or until the military or police forces of such other state or the forces of the United States have had a reasonable opportunity to pick up the pursuit or to apprehend or capture the persons pursued, if such other state has given authority by law for such pursuit by such forces of this state. Except as provided by law, any person who is apprehended or captured in another state by any of the forces of this state shall, without unnecessary delay, be surrendered to the military

or police forces of the state in which he or she is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such person for any crime committed in this state.

(2) Any military forces of another state who are in fresh pursuit of insurrectionists, saboteurs, terrorists, enemies, or enemy forces may continue such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, and the pursuing forces may arrest or capture such persons within this state while in fresh pursuit. Any such persons who are captured or arrested by the military forces of such other state while in this state shall, without unnecessary delay, be surrendered to the military or police forces of this state to be dealt with according to law.

(3) This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful nor to repeal or prevent the application of any of the provisions of sections 16-3-104 and 16-3-106, C.R.S.

(4) The intent of this article and all acts of the state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all acts of the state shall be construed to effect this purpose, and anything to the contrary shall be held null and void so long as the subject matter has been acted on by the United States, and, upon any subject not acted upon with reference to these matters by United States authority, any act of the state shall be in full force and effect. Nothing in this subsection (4) shall be construed to limit in any way the application of this article to the discipline of the Colorado National Guard when on "active service" or "on duty" as defined in section 28-3-101.

(5) All matters relating to the organization, discipline, and government of the military forces not otherwise provided for in this article shall be decided by the custom, regulations, and usage of the appropriate service of the armed forces of the United States.

(6) The military forces of the state of Colorado shall be divided into two classes - the organized militia and the unorganized militia.

(7) The organized militia shall consist of the following:

(a) The federally recognized National Guard; and

(b) The state defense force.

(8) The unorganized militia shall consist of all other members of the military forces.

(9) Consistent with federal law, women may enlist in the state military forces in the same manner as men and shall be appointed by the governor in the same manner as men. While so serving in the state military forces, women shall have the same status as male members of the state military forces, consistent with federal law.

(10) A military force from another state, territory, or district shall not enter the state without the permission of the governor; except that this subsection (10) does not apply to a military force from another state, territory, or district that is on federal orders and acting as a part of the armed forces.

Source: L. 55: p. 607, § 3. **CRS 53:** § 94-9-3. **C.R.S. 1963:** § 94-1-3. **L. 69:** p. 868, § 1. **L. 71:** p. 1047, § 9. **L. 86:** (7)(b) amended, p. 1016, § 8, effective May 3. **L. 95:** (9) amended, p. 319, § 1, effective April 21. **L. 2002:** (1), (2), and (7) amended and (9) R&RE, pp. 584, 585, §§ 3, 4, effective May 24. **L. 2025:** (10) added, (SB 25-276), ch. 240, p. 1220, § 17, effective May 23.

Cross references: For the legislative declaration in SB 25-276, see section 1 of chapter 240, Session Laws of Colorado 2025.

ANNOTATION

Governor may not be interfered with. When the governor decides that an insurrection exists which necessitates the calling out of the militia, his action cannot be interfered with so long as he does not exceed his authorized power. In re Moyer, 35 Colo. 159, 85 P. 190 (1905); Moyer v. Peabody, 148 F. 870 (D. Colo. 1906), aff'd, 212 U.S. 78 (1909).

The Colorado Air National Guard is a state agency. Williams v. Colo. Air Nat'l Guard, 821 P.2d 922 (Colo. App. 1991).

28-3-104. Commander in chief - staff.

The governor shall be the commander in chief of the military forces except so much thereof as may be in the actual service of the United States and may employ the same for the defense or relief of the state, the enforcement of its laws, the protection of life and property therein, and the implementation of the Emergency Management Assistance Compact; for service in a national special security event or in situations involving imminent danger of emergency or disaster; and for the training of the military forces for all appropriate state missions. He or she shall make and publish regulations not inconsistent with law and enforce the provisions of this article. He or she may appoint a staff, consisting of an adjutant general as chief of staff and such other officers as he or she deems necessary if all such officers are federally recognized officers in their respective ranks in the National Guard of the state.

Source: L. 55: p. 609, § 4. **CRS 53:** § 94-9-4. **C.R.S. 1963:** § 94-1-4. **L. 2002:** Entire section amended, pp. 585, 593, §§ 5, 27, effective May 24. **L. 2009:** Entire section amended, (HB 09-1325), ch. 315, p. 1702, § 1, effective May 21.

Editor's note: Amendments to this section by sections 5 and 27 of Senate Bill 02-099 were harmonized.

Cross references: For the "Emergency Management Assistance Compact", see part 29 of article 60 of title 24.

28-3-105. Adjutant general - assistants.

(1) There is an adjutant general of the state who is appointed by the governor, with the advice and consent of the senate, who must be a staff officer, who at the time of appointment must be a commissioned officer of the National Guard of this state with not fewer than ten years' military service in the armed forces of this state or of the United States, at least five of which have been commissioned service in the Colorado National Guard, and who has attained the grade of lieutenant colonel or a higher grade with federal recognition in such grade at least one year prior to the individual's appointment as adjutant general. The adjutant general serves at the pleasure of the governor. The adjutant general is a **type 2** entity, as defined in section 24-1-105.

(2) The adjutant general shall be appointed to the rank of brigadier general or to such higher grade or rank as he or she may be federally recognized in.

(3) The adjutant general shall receive as compensation such salary as the governor by order may prescribe, but such salary shall not exceed the pay and allowances as provided by law for an officer of similar rank and length of service in the regular Army or regular Air Force of the United States.

(4) The adjutant general may appoint an assistant adjutant general for Army, an assistant adjutant general for air, and an assistant adjutant general for space. The adjutant general may appoint other assistant adjutant generals that may be authorized by the federal National Guard bureau or as authorized by the governor. In addition, the adjutant general may appoint any necessary administrative and clerical assistants.

(5) No adverse personnel action shall be taken against an officer or enlisted member of the military forces as a consequence of communicating with any member of the general assembly.

Source: L. 55: p. 609, § 5. **CRS 53:** § 94-9-5. **C.R.S. 1963:** § 94-1-5. **L. 69:** p. 868, § 2. **L. 71:** p. 1045, § 2. **L. 95:** (1) amended and (5) added, p. 319, § 2, effective April 21. **L. 2002:** (1), (2), and (4) amended, p. 594, § 28, effective May 24. **L. 2003:** (4) amended, p. 1907, § 1, effective August 6. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3417, § 186, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

ANNOTATION

General assembly may fix qualifications and tenure. The general assembly has plenary power, and there are no constitutional prohibitions which prevent it fixing the qualifications and tenure of the adjutant general. People ex rel. Boatright v. Newlon, 77 Colo. 516, 238 P. 44 (1925).

Appointment of adjutant general is itself an assignment to duty, and thereafter, the appointee is "on duty by order of the governor". MacGinnis v. Newlon, 82 Colo. 228, 257 P. 1085 (1927).

28-3-106. Powers and duties of adjutant general.

(1) The adjutant general has the following powers and duties:

(a) The adjutant general shall be the chief of staff to the commander in chief and the administrative head of the department of military and veterans affairs. Whenever any law of this state refers to the military department, said law shall be construed as referring to the department of military and veterans affairs.

(b) He or she shall have custody of all military records, correspondence, and other military documents. He or she shall be the medium of military correspondence with the governor and perform all other duties pertaining to his or her office prescribed by law.

(c) The adjutant general shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report accounting to the governor and the state, veterans, and military affairs committees of the house of representatives and the senate for the efficient discharge of all responsibilities assigned by law or directive to the adjutant general.

(d) He or she shall make and transmit to the federal government such reports and returns as are required by the laws of the United States.

(e) He or she shall, when necessary and pursuant to the provisions of section 24-1-136, C.R.S., cause the military code, orders, and regulations of the state to be reproduced and distributed to the commissioned officers and the several organizations of the National Guard.

(f) He or she shall cause to be prepared and issued all necessary books, blanks, and notices required to carry into full effect the provisions of the military code. All such books and blanks are the property of the state.

(g) The seal of office of the adjutant general shall contain the coat of arms of the state with the words added thereto "State of Colorado, Adjutant General's Office", and said seal shall be delivered by him or her to his or her successor. All orders issued from his or her office shall be authenticated with said seal. The adjutant general shall attest to all commissions issued to officers of the military forces.

(h) He or she shall superintend the preparation of all returns and reports required by the United States from the state on military matters.

(i) In the absence of the adjutant general or temporary inability to perform his or her duties as adjutant general, he or she shall appoint, with the consent of the governor, an officer of the National Guard to perform the duties prescribed for the adjutant general. Should the adjutant general be absent or unable to perform his or her duties for a period of six months or more, it shall be considered cause to justify his or her removal. Removal under this paragraph (i) shall be at the sole discretion of the governor.

(j) He or she shall prescribe such regulations not inconsistent with law as will increase the discipline and efficiency and will preserve and protect the property of the military forces of the state of Colorado. These regulations, as prepared by the adjutant general and approved by the governor, shall be published in orders, and the governor, when in his or her judgment it is necessary, may order the adjutant general to revise and amend these regulations. The regulations required by this paragraph (j) need not comply with the provisions of article 4 of title 24, C.R.S.

(k) He or she shall submit a budget respecting the military forces for the ensuing fiscal year for the approval of the controller, and the total of the budget for such period of time shall not be exceeded.

(l) He or she shall keep the papers, volumes, and records of the department in an office provided by the state and shall keep such accounts of activities and expenditures as are necessary and required.

(m) He or she shall attend to the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States. All military property of the state which, after proper inspection, is found

unsuitable for the use of the state, under the direction of the governor, shall be disposed of by the adjutant general at public auction or by inviting bids after suitable advertisement of the sale daily for ten days in at least one newspaper published in the city or county where the sale is to take place; or the same may be sold at private sale when so ordered by the governor or, with the approval of the governor, may be turned over to any other department, board, or commission of the state government by which it can be used. Such department, board, or commission of the state government shall reimburse the military fund for the reasonable value of the property so received. He or she shall bid on the property or suspend the sale when in his or her opinion better prices may or should be obtained. He or she shall from time to time render to the governor a just and true account of the sales made by him or her and shall deposit the proceeds of the same in the military fund.

(n) He or she shall not issue or cause to be issued military property to persons or organizations other than those belonging to the National Guard, except in cases of emergency and then only on written approval of the governor.

(o) All purchases, with the exception of emergency purchases, shall be made through the executive director of the department of personnel in the manner provided by law. All property purchased under the authority granted shall be inspected by an inspector or an officer detailed for that purpose by the adjutant general, and no payment shall be made therefor until it appears by the certificate of such officer that such property is of the kind and quality specified in such agreement or contract. In case of emergency, the governor may suspend the operation of this paragraph (o) and direct the adjutant general in writing to purchase such military property as may be required in the open market. The governor shall report such actions with the reasons therefor and statement of the property purchased and the prices paid therefor to the general assembly at its next session. All payments shall be made by voucher drawn upon the military fund of the state upon such form as may be provided by the controller of the state of Colorado. Each voucher shall show the attestation of the adjutant general that it is within the budget as approved by the governor.

(p) He or she shall employ such clerks, laborers, and other force as may be required for his or her office, other departments, armories, and properties of the National Guard, and, in all cases of employment under this provision, a preference shall be extended to members of the National Guard. The pay of such clerks and other force shall be determined and fixed by the adjutant general with the approval of the governor and consistent with the pay for equivalent positions under the state personnel system. In case of emergency or when authorized by the governor, he or she may employ such additional temporary assistants as are necessary, to be paid from the amounts appropriated for the maintenance of the military forces.

(q) The adjutant general shall have charge of the campgrounds and military reservations of the state and shall be responsible for the protection and safety thereof, and the adjutant general shall promulgate regulations for the maintenance of order thereon, for the enforcement of traffic

rules, and for all other lawful regulations as may be ordered for the operation, care, and preservation of existing facilities and installations on all state military reservations. The adjutant general shall keep in repair all state buildings and other improvements thereon and may make such sound improvements thereon as the good of the service requires. Subject to appropriation by the general assembly, the adjutant general may disburse state money, including, but not limited to, money in the real estate cash fund and the capital construction fund, in accordance with this section.

(r) The adjutant general, by and with the advice and approval of the governor, is authorized to rent, hire, purchase, take the conveyance of, and hold in trust for the use of the state of Colorado such buildings, lands, tenements, and appurtenances thereof as may be from time to time deemed necessary for use by the National Guard. All titles shall be taken in the name of the governor of the state of Colorado for the use of the National Guard. Any purchase of such buildings or other real property or any capital construction performed on real property purchased or held by the state of Colorado for the use of the National Guard is subject to the provisions of part 13 of article 3 of title 2 concerning capital development. Prior to acquiring any real property pursuant to the provisions of this subsection (1)(r), the adjutant general shall submit a report to the capital development committee which describes the anticipated use of such real property, the maintenance costs related to such real property, the current value of such real property, any conditions or limitations which may restrict the use of such real property, and any potential liability to the state which could result from acquiring such real property. The capital development committee shall review any such report which is submitted to the capital development committee and shall provide recommendations to the adjutant general concerning the proposed real property acquisition within thirty days after the date of receipt of such report. The adjutant general shall not complete any such real property acquisition without considering any recommendations of the capital development committee which are provided within such thirty-day period. Subject to appropriation by the general assembly, the adjutant general may disburse state money, including, but not limited to, money in the real estate cash fund and the capital construction fund, in accordance with this section.

(s) (I) If, in the judgment of the adjutant general, any real estate that has been acquired for military purposes is unsuitable for military purposes, the adjutant general, by and with the approval of the governor, in writing, has authority to sell, trade, or otherwise dispose of such real estate, but, except as otherwise provided by subsection (1)(s)(II) of this section, such real estate shall not be disposed of for less than its appraised value. The appraised value of such real estate shall be determined by an appraiser who is licensed or certificated pursuant to part 6 of article 10 of title 12 and who is selected by the adjutant general from a list of three qualified individuals submitted to the adjutant general by the department. Appraisers shall be selected for the list, and their fees shall be negotiated in accordance with the standards established by part 14 of article 30 of title 24. The adjutant general, by and with the advice and approval of the governor, is authorized to lease any property belonging to the department when it is not needed for the

immediate use of the department. All conveyances that are required for the purpose of this section shall be executed by the governor under the seal of the state, and the proceeds of all sales, trades, or other disposition shall be placed in an account to be invested by the state treasurer as provided in section 24-36-113. Any interest earned on the investment or deposit of such proceeds shall remain in such account and shall not be credited to the general fund or any other fund of the state. Said proceeds and any interest thereon shall be disbursed by authority of the adjutant general, subject to appropriation by the general assembly, only for the construction, repair, improvement, acquisition, or costs of acquisition or sale of armories throughout the state. Costs of acquisition or sale shall include but need not be limited to appraisals, site surveys, environmental surveys, title work, property inspections, closing costs, legal fees, real estate fees, site preparation, or utility studies. Prior to disposing of any real property pursuant to the provisions of this subsection (1)(s), the adjutant general shall submit a report to the capital development committee that describes such real property, the maintenance costs related to such real property, the current value of such real property, any conditions or limitations that may restrict the use of such real property, and the terms of the proposed disposition of such real property. The capital development committee shall review any such report that is submitted to the capital development committee and shall provide recommendations to the adjutant general concerning the proposed real property disposition within thirty days after the date of receipt of such report. The adjutant general shall not complete any such real property disposition without considering any recommendations of the capital development committee that are provided within such thirty-day period.

(II) The adjutant general may dispose of real estate acquired but unsuitable for military purposes for less than its appraised value when the disposition is to an agency of state government. The adjutant general shall not be required to have an appraisal performed in order to complete such disposition. In the event an offer has been made to purchase such real estate for more than its appraised value, prior to any disposition the adjutant general shall give due consideration to the terms of the offer and to any cost savings to the state which would result from a transfer of such real estate to a state agency.

(III) Notwithstanding subsection (1)(s)(I) of this section, on July 1, 2020, the state treasurer shall transfer four million nine hundred eight thousand three hundred ninety-five dollars from the account specified in subsection (1)(s)(I) of this section to the general fund.

(IV) On April 1, 2023, the state treasurer shall transfer four million nine hundred eight thousand three hundred ninety-five dollars from the general fund to the account specified in subsection (1)(s)(I) of this section.

(t) Repealed.

(u) He or she shall prescribe the rules and regulations described in section 23-7.4-302 (7).

(v) The adjutant general shall ensure that the department complies with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans for the department.

(w) Repealed.

(x) The adjutant general is authorized to accept gifts, grants, or donations of any kind from any private source or from any governmental unit in order to carry out the functions and duties set forth in this title subject to the conditions upon which the gifts, grants, or donations are made; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law or require expenditures from the general fund unless such expenditures are approved by the general assembly.

(y) The adjutant general may make available for public or private use any distance learning audio and video facilities located within the state. Such public or private use shall be subject to reasonable fees for the costs, including repair, replacement, and salaries involved in the use of the facilities, as well as maintenance and operation of the facilities and equipment.

Source: L. 55: p. 610, § 6. **CRS 53:** § 94-9-6. **C.R.S. 1963:** § 94-1-6. **L. 64:** p. 157, § 104. **L. 67:** p. 78, § 1. **L. 68:** p. 136, § 168. **L. 81:** (1)(o) amended, p. 1296, § 37, effective January 1, 1982. **L. 83:** (1)(c) and (1)(e) amended, p. 840, § 64, effective July 1. **L. 86:** (1)(s) amended and (1)(t) repealed, pp. 1014, 1018, §§1, 18, effective May 3. **L. 91:** (1)(r) amended, p. 1375, § 1, effective April 1; (1)(u) added, p. 549, § 3, effective May 18. **L. 94:** (1)(s) amended, p. 24, § 1, effective March 2; (1)(v) added, p. 566, § 15, effective April 6; (1)(s) amended, p. 1617, § 1, effective May 31. **L. 96:** (1)(o) amended, p. 1542, § 133, effective June 1. **L. 2001:** (1)(c) amended, p. 1178, § 10, effective August 8. **L. 2002:** (1)(b), (1)(d) to (1)(n), (1)(p), (1)(q), and (1)(u) amended, pp. 594, 586, §§ 29, 7, effective May 24; (1)(a) and (1)(s)(I) amended and (1)(w) added, p. 360, § 21, effective July 1. **L. 2003:** (1)(c) and (1)(w)(I) amended, p. 2012, § 104, effective May 22; (1)(x) and (1)(y) added, p. 1907, § 2, effective August 6. **L. 2005:** (1)(s)(I) amended, p. 661, § 1, effective May 27. **L. 2013:** (1)(s)(I) amended, (SB 13-155), ch. 392, p. 2284, § 17, effective July 1. **L. 2018:** (1)(u) amended, (HB 18-1228), ch. 103, p. 787, § 2, effective August 8. **L. 2019:** (1)(s)(I) amended, (HB 19-1172), ch. 136, p. 1715, § 205, effective October 1. **L. 2020:** (1)(s)(III) added, (HB 20-1406), ch. 178, p. 813, § 16, effective June 29. **L. 2023:** (1)(s)(IV) added, (SB 23-141), ch. 5, p. 15, § 2, effective March 3. **L. 2024:** (1)(q) and (1)(r) amended, (HB 24-1412), ch. 83, p. 279, § 1, effective August 7.

Editor's note: Subsection (1)(w)(II) provided for the repeal of subsection (1)(w), effective January 1, 2004. (See L. 2002, p. 360.)

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(a) and (1)(s)(I) and enacting subsection (1)(w), see section 1 of chapter 121, Session Laws of Colorado 2002.

28-3-107. Department of military and veterans affairs fund - creation.

(1) Any gifts, grants, and donations accepted by the adjutant general pursuant to section 28-3-106 (1)(x) shall be transmitted to the state treasurer, who shall credit the same to the department of military and veterans affairs fund, which fund is created and referred to in this section as the "fund". Money in the fund shall be invested by the state treasurer as provided in sections 24-36-109, 24-36-112, and 24-36-113. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert or be credited or transferred to the general fund or be transferred to any other fund. Any interest or income derived from the deposit and investment of money in the fund remains in the fund. Money in the fund is continuously appropriated to the department for use by the adjutant general to carry out the functions and duties set forth in this title 28.

(2) Repealed.

Source: L. 2003: Entire section added, p. 1908, § 3, effective August 6. **L. 2025:** Entire section amended, (HB 25-1215), ch. 312, p. 1631, § 9, effective May 30.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2026. (See L. 2025, p. 1631.)

Cross references: For the legislative declaration in HB 25-1215, see section 1 of chapter 312, Session Laws of Colorado 2025.

28-3-108. Distance learning cash fund - creation.

There is hereby created in the state treasury the distance learning cash fund, referred to in this section as the "fund", which shall consist of the cash fees generated by the public and private use of distance learning facilities pursuant to section 28-3-106 (1)(y). The moneys in the fund shall be invested by the state treasurer as provided in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert or be credited or transferred to the general fund or be transferred to any other fund. Any interest or income derived from the deposit and

investment of moneys in the fund shall remain in the fund and shall not be credited to the general fund. The moneys in the fund shall be continuously appropriated and shall be used to defray the costs associated with operating the distance learning facilities and equipment. Such costs shall include, but need not be limited to, repair, replacement, and salaries involved in the use of said facilities as well as the maintenance and operation of the facilities and equipment.

Source: L. 2003: Entire section added, p. 1908, § 3, effective August 6.

28-3-109. Chargeable quarters and billeting cash fund - creation.

There is hereby created in the state treasury the chargeable quarters and billeting cash fund, referred to in this section as the "fund", which shall consist of any moneys generated through the public or private use of the Colorado Army National Guard facilities managed pursuant to section 28-3-106 (1)(q). The moneys in the fund shall be invested by the state treasurer as provided in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert or be credited or transferred to the general fund or be transferred to any other fund. Any interest or income derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be credited to the general fund. The moneys in the fund shall be continuously appropriated and shall be used to defray the costs associated with operating National Guard training facilities and associated quarters and billeting facilities. Such costs shall include, but need not be limited to, repair, replacement, and salaries involved in the use of the National Guard training facilities as well as the maintenance and operation of the National Guard training facilities.

Source: L. 2011: Entire section added, (HB 11-1237), ch. 223, p. 957, § 1, effective August 10.

28-3-110. Electric vehicle service equipment fund - created - use of fund - gifts, grants, and donations - definitions.

(1) The electric vehicle service equipment fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (2) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the department may expend money from the fund to defray the costs associated with operating electric vehicle

services equipment including costs of facilities' electricity, installation, repair, warranties, replacement, operation of network service, maintenance, and salaries involved in the use of facilities with electric vehicle service equipment.

(2) The state treasurer shall credit all money received by the department from charges imposed by the department on persons charging electric vehicles using electric vehicle service equipment provided by the department at any National Guard facility.

(3) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this subsection (3). The department shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(4) As used in this section, unless the context otherwise requires:

(a) "Electric vehicle service equipment" means electric vehicle charging systems, as defined in section 38-33.3-106.8 (7), and other electrical equipment installed on site to support electric vehicle charging.

(b) "Fund" means the electric vehicle service equipment fund created in subsection (1) of this section.

Source: L. 2023: Entire section added, (SB 23-236), ch. 81, p. 288, § 1, effective April 17.

PART 2

ORGANIZATION

28-3-201. Composition.

The Colorado National Guard consists of the regularly enlisted militia within the ages prescribed by federal law and regulations, organized, armed, and equipped as provided in this article 3, and of commissioned officers and warrant officers within the ages and having the qualifications prescribed by federal law and regulations. "National Guard" applies only to militia organized as provided for in this article 3 and authorized by federal law and regulations relating to the National Guard. The number of officers and enlisted personnel of the National Guard must be fixed from time to time and organized so as to meet the requirements of the federal laws and regulations. The Colorado National Guard is a **type 2** entity, as defined in section 24-1-105.

Source: L. 55: p. 614, § 7. **CRS 53:** § 94-9-7. **C.R.S. 1963:** § 94-1-7. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3417, § 187, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

28-3-202. Organization of inactive guard.

The inactive National Guard shall be organized and maintained under such rules and regulations as may be prescribed in accordance with federal law.

Source: L. 55: p. 614, § 8. **CRS 53:** § 94-9-8. **C.R.S. 1963:** § 94-1-8.

28-3-203. Organization of National Guard.

The organization of the National Guard, including the composition of all units thereof, shall be such as is or may be prescribed for this state by federal law.

Source: L. 55: p. 614, § 9. **CRS 53:** § 94-9-9. **C.R.S. 1963:** § 94-1-9.

28-3-204. Call to federal duty - status.

When congress has declared a national emergency or has authorized the use of the armed forces of the United States for any purpose requiring the use of troops in excess of those in the regular armed services and the president has ordered into the active military service of the United States, to serve therein for the period of the war or emergency, any units and members of the National Guard of this state, all forces so ordered into the active military service of the United States shall from the date thereof stand relieved from duty in the National Guard of this state so long as they remain in the active military service of the United States when so provided by the federal law. Upon being relieved from such duty in the military service of the United States, all such individuals and units shall revert to their Colorado National Guard status.

Source: L. 55: p. 614, § 10. **CRS 53:** § 94-9-10. **C.R.S. 1963:** § 94-1-10.

PART 3

OFFICERS

28-3-301. State staff - number and grades.

The state headquarters shall contain a staff and detachment and shall be divided into a department of the Army and a department of the Air Force. Each department shall be commanded by an officer of the Colorado National Guard. Said officer may be appointed by the governor to the rank of brigadier general or to such higher rank in which he or she may be federally recognized. The number and grades of all other officers and enlisted men and women in the state staff and detachment shall be as prescribed by federal or state law, but, in case of war, invasion, insurrection, riot, or imminent danger of any such emergency, the governor may temporarily increase such forces to meet such emergency, and retired officers who are physically qualified may be assigned to such duty.

Source: L. 55: p. 615, § 11. **CRS 53:** § 94-9-11. **L. 58:** p. 256, § 1. **C.R.S. 1963:** § 94-1-11. **L. 71:** p. 1045, § 3. **L. 2002:** Entire section amended, p. 595, § 30, effective May 24.

28-3-302. Appointment of officers.

The officers of the state staff and detachment shall be selected and appointed by the adjutant general and commissioned by the governor if such appointees at the time of appointment shall have been, for at least three years immediately prior to appointment, a regularly commissioned officer of the National Guard; except that, where there is no qualified person in the National Guard available to fill a vacancy on the staff, an appointment may be made by the adjutant general if the individual so appointed qualifies for a commission pursuant to section 28-3-303.

Source: L. 55: p. 615, § 12. **CRS 53:** § 94-9-12. **C.R.S. 1963:** § 94-1-12.

ANNOTATION

Regulation of tenure not unconstitutional. Legislative regulation of the tenure of officers of the National Guard does not contravene § 5 of art. I, Colo. Const., providing that the governor shall be commander in chief of the military forces of the state. People ex rel. Boatright v. Newlon, 77 Colo. 516, 238 P. 44 (1925).

28-3-303. Qualifications of officers.

Officers of the National Guard shall not be commissioned as such unless they have been selected from the classes of persons having the qualifications prescribed by federal law and have taken and subscribed to the oath of office prescribed by congress.

Source: L. 55: p. 615, § 13. **CRS 53:** § 94-9-13. **C.R.S. 1963:** § 94-1-13.

28-3-304. Commissions - examinations - assignments.

Any person appointed, promoted, and commissioned on or after April 14, 1955, as an officer of the National Guard shall successively pass such examinations and tests as to his or her physical, moral, and professional fitness as are prescribed by federal law. Officers shall be commissioned by the governor, and the commissions shall designate the armed service, staff corps, or department in which they are appointed. They will be assigned to duty within each organization by the immediate commander thereof.

Source: L. 55: p. 615, § 14. **CRS 53:** § 94-9-14. **C.R.S. 1963:** § 94-1-14. **L. 71:** p. 1046, § 4. **L. 2002:** Entire section amended, p. 596, § 31, effective May 24.

28-3-305. Officers' duties - administer oaths.

In addition to the powers and duties prescribed in this part 3, all officers of the National Guard shall have the same duties as officers of similar rank and position in the United States Army or the United States Air Force, as the case may be, insofar as may be authorized by federal law. They are authorized to administer oaths in all matters connected with the service.

Source: L. 55: p. 616, § 15. **CRS 53:** § 94-9-15. **C.R.S. 1963:** § 94-1-15.

Cross references: For officers' powers to perform notarial acts, see § 24-12-104.

28-3-306. Federal duty as continuous service.

Service by any person in the United States volunteers or in any of the armed forces of the United States in time of war, insurrection, or rebellion shall be considered as continuous service

in the National Guard for all purposes regarding privileges and exemptions provided by law for members of the National Guard, by enlistment or commission, but the continuous service for an officer shall include only the time he or she was commissioned as such.

Source: L. 55: p. 616, § 16. **CRS 53:** § 94-9-16. **C.R.S. 1963:** § 94-1-16. **L. 2002:** Entire section amended, p. 596, § 32, effective May 24.

28-3-307. Supplies - indemnity bonds - depots.

Arms, ammunition, equipment, and stores shall be issued to the proper officers of each organization upon requisition as prescribed by federal law. The governor may require of the accountable officers such bonds as he or she deems necessary for securing the care and safety of property so issued and shall allow them sufficient money to insure such property against fire when so required by the federal government. He or she may also allow them sufficient money to establish and maintain depots approved by him or her and to pay for transportation, handling, and care of such property, which allowance shall be paid out of the moneys appropriated or designated for the purchase of supplies for the National Guard. The adjutant general, with the approval of the governor, shall obtain and pay for, out of the military fund, an adequate indemnity bond covering all of the officers of the National Guard responsible for moneys and military property.

Source: L. 55: p. 616, § 17. **CRS 53:** § 94-9-17. **C.R.S. 1963:** § 94-1-17. **L. 2002:** Entire section amended, p. 596, § 33, effective May 24.

28-3-308. Resignation of officers.

Commissioned officers and warrant officers may resign in such manner and under such circumstances as may be provided by federal laws or regulations.

Source: L. 55: p. 616, § 18. **CRS 53:** § 94-9-18. **C.R.S. 1963:** § 94-1-18.

28-3-309. Officer's fitness - vacation of commissions.

The moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board as provided by federal law. Commissions or warrants of officers of the National Guard may be vacated upon resignation, absence without leave for

three months, the recommendation of an efficiency board pursuant to sentence of a court-martial, permanent removal from the state, termination of federal recognition, or transfer to another reserve component.

Source: L. 55: p. 616, § 19. **CRS 53:** § 94-9-19. **C.R.S. 1963:** § 94-1-19. **L. 71:** p. 1046, § 5.

28-3-310. Disbandment - surplus officers - disposition.

Officers of the National Guard rendered surplus by the disbandment of their organization shall be disposed of as provided by federal law.

Source: L. 55: p. 617, § 20. **CRS 53:** § 94-9-20. **C.R.S. 1963:** § 94-1-20.

28-3-311. Officers - inactive status - procedure.

Officers may, upon their own application, be placed in the inactive National Guard as may be authorized by federal law.

Source: L. 55: p. 617, § 21. **CRS 53:** § 94-9-21. **C.R.S. 1963:** § 94-1-21.

28-3-312. Retirement of officers.

Officers may voluntarily retire and be placed on the retirement list if they have qualified for such retirement under the provisions of federal law. Officers may be involuntarily retired and placed on the retirement list if under federal law such retirement becomes mandatory.

Source: L. 55: p. 617, § 22. **CRS 53:** § 94-9-22. **C.R.S. 1963:** § 94-1-22.

28-3-313. Termination of commission - recall.

Commissions of National Guard officers shall be terminated as provided by federal law, but, in time of war or other declared emergency, any officer who reaches retirement age may, in the discretion of the commander in chief, on the recommendation of the adjutant general, be

continued in the active service of the state defense force in his or her then grade and assignment for the duration of the war or emergency and for six months thereafter.

Source: L. 55: p. 617, § 23. **CRS 53:** § 94-9-23. **C.R.S. 1963:** § 94-1-23. **L. 86:** Entire section amended, p. 1016, § 9, effective May 3. **L. 2002:** Entire section amended, p. 596, § 34, effective May 24.

28-3-314. Roll of retired officers.

Any commissioned officer of the National Guard who resigns or is retired and who has served as such officer for a period of not less than fifteen years, and any commissioned officer of the National Guard who has been honorably discharged from any of the armed forces of the United States after serving therein for a period of ninety days or more during any war and who has served as such officer of the National Guard for a period of not less than ten years, and any commissioned officer of the National Guard who becomes disabled and thereby incapable of performing the duties of his or her office shall, upon retirement, have his or her name placed on a roll in the office of the adjutant general to be known as the "roll of retired officers" and is thereby entitled to wear, when not in conflict with federal law, on state or other occasions of ceremony, the uniform of the rank last held by him or her.

Source: L. 55: p. 617, § 24. **CRS 53:** § 94-9-24. **C.R.S. 1963:** § 94-1-24. **L. 2002:** Entire section amended, p. 597, § 35, effective May 24.

28-3-315. Retired officers - warrant officers - limited assignments.

The commander in chief may assign officers and warrant officers on the retired list to state active duty in recruiting, to serve upon courts-martial, courts of inquiry and board, to staff duty not involving service with troops, to be in charge of a military reservation left temporarily without officers, or to such other duties as the adjutant general may designate. Such officers and warrant officers while so assigned shall receive the full pay and allowances of their grades at time of retirement or may serve in a volunteer unpaid status.

Source: L. 55: p. 618, § 25. **CRS 53:** § 94-9-25. **C.R.S. 1963:** § 94-1-25. **L. 2002:** Entire section amended, p. 586, § 8, effective May 24.

28-3-316. Brevet commissions.

General and field officers of the National Guard who have, after twenty-five years' service, resigned or retired may, in the discretion of the commander in chief, on the recommendation of the adjutant general, be commissioned by brevet in the next higher grade than that held by them at the time of their resignation or retirement, but not above the grade of major general. Brevet rank shall be considered strictly honorary and shall confer no privilege of precedence or command nor pay any emoluments. Brevet officers may wear the uniform of their brevet rank on occasions of ceremony.

Source: L. 55: p. 618, § 26. **CRS 53:** § 94-9-26. **C.R.S. 1963:** § 94-1-26.

PART 4

ENLISTED PERSONS

28-3-401. Enlistment periods - extensions.

Except as otherwise provided in this article or by federal law, original enlistments in the military forces shall be for a period of three years and subsequent enlistments for a period of one or three years. The governor may by order fix shorter periods of enlistment or reenlistment for any of the military forces so far as not inconsistent with federal law. In the event of any emergency wherein the governor has called out any of the military forces, he or she may by order extend, for not exceeding the period of emergency and sixty days thereafter, the period of any enlistment in the forces called out which would otherwise expire.

Source: L. 55: p. 618, § 27. **CRS 53:** § 94-9-27. **C.R.S. 1963:** § 94-1-27. **L. 2002:** Entire section amended, p. 597, § 36, effective May 24.

28-3-402. Enlistment contract - form - oath.

Every person enlisting in the military forces shall sign an enlistment contract in the form prescribed by the adjutant general and shall subscribe to the following oath or affirmation: "I hereby acknowledge to have voluntarily enlisted this ..... day of ..... 20...., in the ..... for the period of three (or one) years, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and the state of Colorado; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of

the president of the United States and the governor of the state of Colorado and the officers appointed over me according to law and the rules and articles of war." However, the words "the president of the United States and" shall be omitted in the case of personnel enlisting in forces not subject to federal service.

Source: L. 55: p. 618, § 28. **CRS 53:** § 94-9-28. **C.R.S. 1963:** § 94-1-28.

28-3-403. Group enlistments barred - when.

No civil association, society, club, post, order, fraternity, brotherhood, union, league, or other organized body shall be enlisted in the military forces as a unit.

Source: L. 55: p. 619, § 29. **CRS 53:** § 94-9-29. **C.R.S. 1963:** § 94-1-29.

28-3-404. Honorable discharge.

An enlisted person discharged from service in the National Guard shall receive a discharge in writing in such form and with such classification as is prescribed by federal law, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the federal authorities may prescribe.

Source: L. 55: p. 619, § 30. **CRS 53:** § 94-9-30. **C.R.S. 1963:** § 94-1-30. **L. 2002:** Entire section amended, p. 597, § 37, effective May 24.

28-3-405. Dishonorable discharge.

A dishonorable discharge from service in the National Guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the adjutant general.

Source: L. 55: p. 619, § 31. **CRS 53:** § 94-9-31. **C.R.S. 1963:** § 94-1-31.

28-3-406. Exemption from arrest or civil process.

No member of the National Guard shall be arrested or served with any summons, order, warrant, or other civil process after having been ordered to any duty or while going to, attending, or returning from any place to which he or she is required to go for military duty; but nothing in this article shall prevent his or her arrest by order of a military officer or for a crime committed while not in actual performance of his or her duty. The articles of military equipment personally owned by such members shall be exempt from seizure or sale for debt pursuant to section 13-54-102, C.R.S.

Source: L. 55: p. 619, § 32. **CRS 53:** § 94-9-32. **C.R.S. 1963:** § 94-1-32. **L. 2002:** Entire section amended, p. 587, § 9, effective May 24.

28-3-407. Retired noncommissioned officers - limited assignments.

The commander in chief may assign noncommissioned officers on the retired list to state active duty in recruiting, to serve upon courts-martial, courts of inquiry and board, to staff duty not involving service with troops, to be in charge of a military reservation left temporarily without officers, or to such other duties as the adjutant general may designate. Such noncommissioned officers while so assigned shall receive the full pay and allowances of their grades at time of retirement or may serve in a volunteer unpaid status.

Source: L. 2002: Entire section added, p. 587, § 10, effective May 24.

PART 5

RIGHTS - EXEMPTIONS - DUTIES

28-3-501. Nonliability for official acts.

The commanding officer of any of the military forces engaged in the suppression of an insurrection, the dispersion of a mob, or the enforcement of the laws shall exercise his or her discretion as to the propriety of firing upon or otherwise attacking any mob or other unlawful assembly; and, if he or she exercises his or her honest judgment thereon, he or she shall not be liable in either a civil or a criminal action for any act done while on such duty. No officer or enlisted person shall be held liable in either a civil or criminal action for any act done under lawful orders and in the performance of his or her duty.

Source: L. 55: p. 623, § 45. **CRS 53:** § 94-9-45. **C.R.S. 1963:** § 94-1-45. **L. 2002:** Entire section amended, p. 597, § 38, effective May 24.

28-3-502. Actions against military personnel - defense counsel.

If a suit or proceeding is commenced in any court by any person against any officer of the military forces for any act done by such officer in his or her official capacity in the discharge of any duty under this article, or against any enlisted person acting under the authority or order of any such officer, or by virtue of any warrant issued by him or her pursuant to law, it is the duty of the governor, upon the recommendation of the attorney general, to appoint counsel to defend such person. The cost and expenses of any such defense shall be paid out of the military fund.

Source: L. 55: p. 623, § 46. **CRS 53:** § 94-9-46. **C.R.S. 1963:** § 94-1-46. **L. 2002:** Entire section amended, p. 598, § 39, effective May 24.

28-3-503. Actions against military personnel - cost bond.

Any person bringing an action or proceeding against a military officer of the state for any act done in the course of his or her official duty or against any person acting under the order or authority of such officer shall give security for the costs, disbursements, and reasonable attorney fees incurred by the state or defendant in defending the same in the same manner and subject to the same regulations, so far as applicable, as in the case of a nonresident plaintiff, and, if the plaintiff fails to recover, such attorney fees may be taxed with the costs and disbursements and judgment therefor entered against him or her and his or her sureties on the bond.

Source: L. 55: p. 623, § 47. **CRS 53:** § 94-9-47. **C.R.S. 1963:** § 94-1-47. **L. 2002:** Entire section amended, p. 598, § 40, effective May 24.

28-3-504. Exemption from traffic regulations.

The military forces of the United States and of the state and the adjutant general and general officers of such forces with official insignia displayed, while on any authorized duty, shall not be restricted by state or municipal traffic regulations and shall have the right-of-way on any street or highway through which they may pass against except carriers of the United States mail, fire engines, and police vehicles.

Source: L. 55: p. 623, § 48. **CRS 53:** § 94-9-48. **C.R.S. 1963:** § 94-1-48.

28-3-505. Discrimination - public places and common carriers - penalty.

It is unlawful for any common carrier, innkeeper, proprietor, or lessee of any place of public amusement or entertainment or any agent, servant, or representative of any such common carrier, innkeeper, proprietor, or lessee as aforesaid to bar from the full and equal enjoyment of the accommodations, advantages, facilities, or privileges of any public conveyance or any inn or of any place of public amusement or entertainment any person in the service of the armed forces of the United States or of the National Guard, wearing the uniform prescribed for him or her at that time or place by law, regulation of the service, or custom, on account of his or her wearing such uniform or of his or her being in such service. Any person who is barred from such enjoyment contrary to the provisions contained in this section is entitled to recover in an action against any corporation, association, or person who commits such violation his or her actual damages and three hundred dollars in addition thereto and reasonable attorney fees and costs. Evidence that such person barred was at the time sober, orderly, and willing to pay for such enjoyment in accordance with rates affixed therefor for civilians shall be prima facie evidence that he or she was barred on account of his or her wearing such uniform or of his or her being in such service.

Source: L. 55: p. 624, § 49. **CRS 53:** § 94-9-49. **C.R.S. 1963:** § 94-1-49. **L. 2002:** Entire section amended, p. 587, § 12, effective July 1.

28-3-506. Discrimination against employment - penalty.

(1) (a) No person shall discriminate against any officer or enlisted person of the military forces of the state because of the officer or enlisted person's membership therein.

(b) No employer or officer or agent of any corporation, company, or firm or other person shall:

(I) Refuse to hire any person for or discharge any person from employment because of the person's status as an officer or enlisted person of the military forces of the state; or

(II) Hinder or prevent the person from performing any military service he or she may be called upon to perform by proper authority; or

(III) Dissuade any person from enlistment in the said National Guard by threat or injury to such person, if he or she so enlists, in respect to the person's employment, trade, or business.

(2) Any person violating any of the provisions of subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five

thousand dollars. In addition, the aggrieved person may bring an action at law for damages for such noncompliance or apply to the district court for such equitable relief as is just and proper under the circumstances.

Source: L. 55: p. 624, § 50. **CRS 53:** § 94-9-50. **C.R.S. 1963:** § 94-1-50. **L. 2002:** Entire section amended, p. 588, § 13, effective July 1; entire section amended, p. 693, § 2, effective July 1.

ANNOTATION

Law reviews. For article, "Punitive Damages in Wrongful Discharge Cases", see 15 Colo. Law. 658 (1986).

28-3-507. Interference with duty - arrest - penalty.

Any person who obstructs or interferes with a member of the National Guard in the performance of his or her duty may be placed under guard by the officer in command. As soon as possible, such officer shall either release such person or turn him or her over to any peace officer of the city or place where such duty is being performed, and such peace officer shall thereupon deliver such offender for examination and trial before any court having jurisdiction. Any person violating the provisions of this section commits a class 2 misdemeanor.

Source: L. 55: p. 624, § 51. **CRS 53:** § 94-9-51. **C.R.S. 1963:** § 94-1-51. **L. 2002:** Entire section amended, p. 588, § 14, effective May 24. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3244, § 491, effective March 1, 2022.

PART 6

PUBLIC AND PRIVATE EMPLOYEES - DUTIES

28-3-601. Public employees - annual military leave.

(1) Subject to the conditions prescribed in sections 28-3-601 to 28-3-607, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who is a member of the National Guard or any other component of the military forces of the state organized or constituted under state or federal law or who is a member

of the reserve forces of the United States, organized or constituted under federal law, is entitled to leave of absence from the officer's or employee's public office or employment without loss of pay, seniority, status, efficiency rating, vacation, sick leave, or other benefits for the entire time the officer or employee is engaged with such organization or component in training or active service ordered or authorized by proper authority pursuant to law, whether for state or federal purposes, but not exceeding the equivalent of four weeks of work on the officer's or employee's regular work schedule in the leave year established by the employer. The employer shall allow the leave if the required military service is satisfactorily performed, which is presumed unless the contrary is established.

(2) Such leave shall not be allowed unless the officer or employee returns to his or her public position immediately on being relieved from such military service and not later than the expiration of the time limited in subsection (1) of this section for such leave, or is prevented from so returning by physical or mental disability or other cause not due to his or her own fault, or is required by proper authority to continue in such military service beyond the time limited in subsection (1) of this section for such leave.

Source: L. 55: p. 619, § 33. **CRS 53:** § 94-9-33. **C.R.S. 1963:** § 94-1-33. **L. 2002:** Entire section amended, p. 598, § 41, effective May 24. **L. 2009:** (1) amended, (HB 09-1315), ch. 312, p. 1694, § 4, effective August 5. **L. 2023:** (1) amended, (HB 23-1045), ch. 17, p. 51, § 1, effective March 10. **L. 2026:** (1) amended, (HB 26-1413), ch. 288, p. 1583, § 2, effective July 1.

ANNOTATION

Contractual provision not in conflict with statutory prohibition. A contractual provision requiring teachers on military leave to turn over to the school board payments received for reserve service does not, on its face, conflict with any statutory prohibition. Colo. Springs Teachers Ass'n v. Sch. Dist. No. 11, 622 P.2d 602 (Colo. App. 1980).

28-3-602. Public employees - extended military leave.

An officer or employee who is taking a leave of absence described in section 28-3-601 (1) is entitled to use any paid leave available to the officer or employee or to use unpaid leave. If an officer or employee uses paid leave and is required by proper authority to continue in military service beyond the time for which the officer or employee has available paid leave, the officer or employee is entitled to leave of absence from the officer's or employee's public office or employment without pay for all additional service with right of reinstatement thereafter upon the

same conditions as provided in section 28-3-604 for reinstatement after active service in time of war or other emergency.

Source: L. 55: p. 620, § 34. **CRS 53:** § 94-9-34. **C.R.S. 1963:** § 94-1-34. **L. 2002:** Entire section amended, p. 598, § 42, effective May 24. **L. 2023:** Entire section amended, (HB 23-1045), ch. 17, p. 52, § 2, effective March 10.

28-3-603. Public employees - emergency military leave.

Subject to the conditions prescribed in this section, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active military service in time of war or other emergency declared by proper authority of the state or the United States, for which leave is not otherwise allowed by law or permitted by the officer's or employee's employer, is entitled to leave of absence from the officer's or employee's public office or employment without pay during the service with right of reinstatement as provided in section 28-3-604.

Source: L. 55: p. 620, § 35. **CRS 53:** § 94-9-35. **C.R.S. 1963:** § 94-1-35. **L. 2002:** Entire section amended, p. 599, § 43, effective May 24. **L. 2023:** Entire section amended, (HB 23-1045), ch. 17, p. 52, § 3, effective March 10.

ANNOTATION

Legislative intent of this section was to provide a benefit to career public employees who went into active military service on a temporary basis in time of war or other emergency declared by proper authority. State Civil Serv. Comm'n v. Fleming, 183 Colo. 71, 514 P.2d 1135 (1973).

When employee in active military service entitled to leave without pay status. A public employee who goes into active military service in time of declared war or other emergency is entitled to leave without pay status, but only so long as the war or emergency actually exists. State Civil Serv. Comm'n v. Fleming, 183 Colo. 71, 514 P.2d 1135 (1973).

Section is nonoperative after cessation of war or emergency. After the cessation of active combat or the condition requiring military intervention, it was intended that this statute become nonoperative. State Civil Serv. Comm'n v. Fleming, 183 Colo. 71, 514 P.2d 1135 (1973).

Benefit derived from this statute is not to continue during periods when this country is not engaged in any war or other emergency which requires our military intervention.

State Civil Serv. Comm'n v. Fleming, 183 Colo. 71, 514 P.2d 1135 (1973).

28-3-604. Reinstatement.

(1) Except as otherwise provided in sections 28-3-601 to 28-3-607, upon the completion of such service, an officer or employee must be reinstated in the public position that the officer or employee held at the time of entry into such service or a public position of like seniority, status, and pay if such a position is available at the same salary that the officer or employee would have received if the officer or employee had not taken the leave upon the following conditions:

(a) That the position has not been abolished or that the term thereof, if limited, has not expired;

(b) Repealed.

(c) That he or she makes written application for reinstatement to the appointing authority within ninety days after discharge from hospitalization or medical treatment which immediately follows the termination of and results from such service, but such application shall be made within one year and ninety days after termination of such service, notwithstanding such hospitalization or medical treatment;

(d) That he or she submits an honorable discharge or other form of release by proper authority indicating that his or her military service was satisfactory.

(2) Upon such reinstatement, the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if he or she had been actually employed during the time of such leave. No officer or employee so reinstated shall be removed or discharged within one year thereafter, except for cause and after notice and hearing; but this shall not operate to extend a term of service or office limited by law.

Source: L. 55: p. 620, § 36. **CRS 53:** § 94-9-36. **C.R.S. 1963:** § 94-1-36. **L. 2002:** IP(1), (1)(b), (1)(c), (1)(d), and (2) amended, p. 599, § 44, effective May 24. **L. 2023:** IP(1) amended and (1)(b) repealed, (HB 23-1045), ch. 17, p. 52, § 4, effective March 10.

28-3-605. Public officer - certificate for reinstatement.

Any public officer elected or appointed for a definite term who, before the expiration of such term, returns from military service under leave of absence without pay, in lieu of making written application for reinstatement as provided in section 28-3-604, shall file in the same office where his or her official oath is filed, within forty-five days after termination of such military service, a

verified certificate that he or she has complied with the conditions for reinstatement prescribed in section 28-3-604, and he or she shall thereupon be deemed to have resumed his or her office.

Source: L. 55: p. 621, § 37. **CRS 53:** § 94-9-37. **C.R.S. 1963:** § 94-1-37. **L. 2002:** Entire section amended, p. 599, § 45, effective May 24.

28-3-606. Public pension rights retained.

Any public officer or employee receiving leave of absence under the preceding sections and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all such rights accrued up to the time of taking such leave and shall have all rights subsequently accruing under such system as if he or she had been actually employed during the time of such leave. Any increase in the amount of money benefits accruing with respect to the time of such leave is dependent upon the payment of any contributions or assessments, and the right to such increase is dependent upon the payment of such contributions or assessments within such reasonable time after the termination of such leave and upon such terms as the authorities in charge of the system may prescribe.

Source: L. 55: p. 621, § 38. **CRS 53:** § 94-9-38. **C.R.S. 1963:** § 94-1-38. **L. 2002:** Entire section amended, p. 600, § 46, effective May 24.

28-3-607. Public employees - substitute during service.

If a public officer or employee is absent with leave under the provisions of the preceding sections and if it is necessary in the public interest to provide for the performance of the duties of his or her position during such absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent, shall receive the same compensation as fixed by law or otherwise such compensation as may be fixed by proper authority, and shall have all the power and perform all the duties of the position until the return of the regular incumbent; except that this shall not preclude the making of any other provision for the discharge of the duties of the position which may be otherwise authorized by law.

Source: L. 55: p. 621, § 39. **CRS 53:** § 94-9-39. **C.R.S. 1963:** § 94-1-39. **L. 2002:** Entire section amended, p. 600, § 47, effective May 24.

28-3-608. Sections supplemental.

The rights and privileges granted by sections 28-3-601 to 28-3-607 are supplementary to and not exclusive of any other rights or privileges conferred by law on public officers or employees but shall not obtain in any case where the military services are constitutionally or legally incompatible with the public office or employment.

Source: L. 55: p. 622, § 40. **CRS 53:** § 94-9-40. **C.R.S. 1963:** § 94-1-40.

28-3-609. Private employees - annual military leave.

Any person who is a duly qualified member of the Colorado National Guard or the reserve forces of the United States who, in order to receive military training with the armed forces of the United States, not to exceed the equivalent of three weeks of work on the person's regular work schedule in any one calendar year, leaves a position other than a temporary position in the employ of an employer, and who gives evidence of the satisfactory completion of the training, and who is still qualified to perform the duties of the person's position, is entitled to be restored to the person's previous or a similar position in the same status, pay, and seniority. The person is entitled to use any paid leave available to the person or to use unpaid leave for the person's period of absence for military training.

Source: L. 55: p. 622, § 41. **CRS 53:** § 94-9-41. **C.R.S. 1963:** § 94-1-41. **L. 2002:** Entire section amended, p. 600, § 48, effective May 24. **L. 2023:** Entire section amended, (HB 23-1045), ch. 17, p. 52, § 5, effective March 10.

28-3-610. Private employees - benefits retained.

Such absence for military training will in no way affect the employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of his or her employment normally to be anticipated in his or her particular position.

Source: L. 55: p. 622, § 42. **CRS 53:** § 94-9-42. **C.R.S. 1963:** § 94-1-42. **L. 2002:** Entire section amended, p. 600, § 49, effective May 24.

28-3-610.5. Private employees - state service - reemployment rights - benefits retained.

(1) A private employee who is a duly qualified member of the Colorado National Guard who leaves or who is absent from the employee's employment, regardless of the length of the absence, in order to engage in active service for state purposes pursuant to section 28-3-104:

(a) Is entitled to the reemployment rights for members described in section 28-3-609, so long as the employee otherwise meets the requirements of section 28-3-609;

(b) Retains the right to the employee benefits described in section 28-3-610; and

(c) Is entitled to use any paid leave available to the employee or to use unpaid leave.

Source: L. 97: Entire section added, p. 6, § 1, effective July 1. **L. 2023:** Entire section amended, (HB 23-1045), ch. 17, p. 53, § 6, effective March 10.

28-3-611. Employer's noncompliance - actions.

Any employer violating any of the provisions of this part 6 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars. In addition, the employee may bring an action at law for damages and reasonable attorney fees for such noncompliance or apply to the district court for such equitable relief and reasonable attorney fees as are just and proper under the circumstances.

Source: L. 55: p. 622, § 43. **CRS 53:** § 94-9-43. **C.R.S. 1963:** § 94-1-43. **L. 2002:** Entire section amended, p. 589, § 15, effective May 24; entire section amended, p. 693, § 3, effective July 1.

28-3-612. Federal law - rights - applicability.

Nothing in this article shall be construed as restricting or abrogating any right available to any officer or enlisted person of the military forces of the state under the federal "Uniformed Services Employment and Reemployment Rights Act", 38 U.S.C. sec. 4301 et seq.

Source: L. 2002: Entire section added, p. 589, § 16, effective May 24.

PART 7

PROPERTY AND EQUIPMENT

28-3-701. Misuse of property and funds by military personnel - penalty.

Any officer or enlisted person who refuses to account for and to surrender up any moneys or any uniforms or equipment or other military property for which he or she is responsible or accountable, or who appropriates the same to his or her own use, or who knowingly makes a false payroll or signs a false certificate which is the basis for the payment of moneys under this article, or who aids or abets another in any of these acts commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 55: p. 625, § 52. **CRS 53:** § 94-9-52. **C.R.S. 1963:** § 94-1-52. **L. 77:** Entire section amended, p. 881, § 56, effective July 1, 1979. **L. 89:** Entire section amended, p. 847, § 120, effective July 1. **L. 2002:** Entire section amended, p. 601, § 50, effective May 24; entire section amended, p. 1541, § 282, effective October 1.

Editor's note: (1) The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 Colo. 452, 611 P.2d 574 (1980).

(2) Amendments to this section by Senate Bill 02-099 and House Bill 02-1046 were harmonized.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

28-3-702. Misuse of property - generally - penalty.

Every person, whether a member of the military forces or not, who willfully destroys, damages, sells or disposes of, or buys or receives any arms, equipment, or accouterments issued by the United States or the state for the use of military forces or refuses to deliver or pay for the same upon lawful demand commits a class 2 misdemeanor.

Source: L. 55: p. 625, § 53. **CRS 53:** § 94-9-53. **C.R.S. 1963:** § 94-1-53. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3245, § 492, effective March 1, 2022.

28-3-703. Property and fiscal officer - appointment - duties.

The governor, pursuant to federal authority, shall appoint, designate, or detail an officer of the National Guard who shall be regarded as property and fiscal officer for the United States. The property and fiscal officer shall serve at the pleasure of the governor. The property and fiscal officer shall receipt and account for all funds and property belonging to the United States in possession of the National Guard of this state and shall make such returns and reports concerning the same as may be required by federal law and regulations. The property and fiscal officer shall render, through the United States department of defense, such accounts of federal funds entrusted to the property and fiscal officer for disbursement as may be required by the United States treasury department. Before entering upon the performance of the duties as property and fiscal officer, the property and fiscal officer shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by federal laws or regulations, for the faithful performance of the duties of the office and for the safekeeping and proper disposition of federal property and funds entrusted to the property and fiscal officer's care.

Source: L. 55: p. 626, § 56. **CRS 53:** § 94-9-56. **C.R.S. 1963:** § 94-1-56. **L. 95:** Entire section amended, p. 320, § 3, effective April 21.

28-3-704. Uniforms and equipment - procurement and issuance.

The National Guard shall be uniformed, armed, and equipped as provided by federal law. Such uniforms, arms, and equipment shall be procured and issued by the proper officers as the needs of the service may require and shall be accounted for as regulations may prescribe.

Source: L. 55: p. 626, § 57. **CRS 53:** § 94-9-57. **C.R.S. 1963:** § 94-1-57.

28-3-705. Uniforms and equipment - distribution and return.

The commanding officer of an organization receiving clothing or equipment for the use of his or her command shall distribute the same to the members of his or her command, taking receipts and requiring the return of each article at such time and place as he or she directs.

Source: L. 55: p. 626, § 58. **CRS 53:** § 94-9-58. **C.R.S. 1963:** § 94-1-58. **L. 2002:** Entire section amended, p. 601, § 51, effective May 24.

28-3-706. Deductions from pay - forfeitures - lost equipment.

Legal fines or forfeitures and the value of any articles of uniform, arms, or equipment, whether state or federal, issued to any officer or enlisted person which he or she fails to return on demand of proper authority and for the loss of or damage to which he or she has been held responsible by a report of survey or other proper proceeding shall be deducted from such officer's or enlisted person's pay in the manner provided for in federal or state orders or regulations. Deductions from federal pay and allowances may only be made in the manner prescribed by federal law or regulation.

Source: L. 55: p. 626, § 59. **CRS 53:** § 94-9-59. **C.R.S. 1963:** § 94-1-59. **L. 2002:** Entire section amended, p. 601, § 52, effective May 24.

PART 8

SERVICE BENEFITS

28-3-801. Disability and death benefits.

A member of the military forces of the state of Colorado who dies or is disabled while in, or as a result of, active service on behalf of this state ordered by competent authority, which death or disability arises out of and in the course of his or her employment in the active service of the state of Colorado, is entitled to workers' compensation benefits in accordance with the provisions of the "Workers' Compensation Act of Colorado"; but no workers' compensation benefits shall be paid under this section in any case where similar benefits are payable under the provisions of any federal law or regulation.

Source: L. 55: p. 625, § 54. **CRS 53:** § 94-9-54. **C.R.S. 1963:** § 94-1-54. **L. 71:** p. 1046, § 6. **L. 90:** Entire section amended, p. 571, § 59, effective July 1. **L. 2002:** Entire section amended, p. 601, § 53, effective May 24.

Cross references: For the "Workers' Compensation Act of Colorado", see articles 40 to 47 of title 8.

28-3-802. Unit funds.

(1) There is authorized to be created and maintained for each separate unit of the Colorado National Guard a unit fund. Expenditures from such unit fund shall be made in accordance with rules and regulations established by the adjutant general of the state of Colorado and applicable federal laws, rules, and regulations.

(2) There is authorized to be deposited in each unit fund such moneys as may be received from gifts, bequests, contributions, including federal contributions, and such amounts as may be appropriated to such unit funds from the general fund of the state of Colorado.

Source: L. 55: p. 625, § 55. **CRS 53:** § 94-9-5. **C.R.S. 1963:** § 94-1-55. **L. 71:** p. 1046, § 7. **L. 2002:** (2) amended, p. 589, § 17, effective May 24.

PART 9

ORGANIZATION - ALLOWANCES - DRILLS

28-3-901. Organization assemblies and exercises.

Each organization shall assemble for drill and instruction and shall participate in encampments, maneuvers, and other exercises at such time and places and for such periods as may be prescribed by the governor in accordance with the requirements of the state or federal law.

Source: L. 55: p. 626, § 60. **CRS 53:** § 94-9-60. **C.R.S. 1963:** § 94-1-60.

28-3-902. Encampments, maneuvers, and parades.

The governor may order the military forces or any part thereof into camp each year for such period as he or she may direct and shall also provide for their participation in encampments or field maneuvers at such places as may be designated by the federal government. The governor may, in his or her discretion, order such organizations as he or she may deem proper to parade for purposes of drill, review, or escort duty and prescribe all regulations and requirements therefor.

Source: L. 55: p. 627, § 61. **CRS 53:** § 94-9-61. **C.R.S. 1963:** § 94-1-61. **L. 2002:** Entire section amended, p. 601, § 54, effective May 24.

28-3-903. Inspections.

When so ordered by the governor, an inspection shall be made by such officer designated by the governor of all of the military forces of the state of Colorado, and such inspector shall report the number of troops present, the condition of their arms, equipment, and clothing, their proficiency, and such other information as may be required of or deemed proper by him or her. There shall be at least one inspection annually at such time and place as the governor designates. The forms and mode of inspection shall be prescribed by the adjutant general.

Source: L. 55: p. 627, § 62. **CRS 53:** § 94-9-62. **C.R.S. 1963:** § 94-1-62. **L. 2002:** Entire section amended, p. 602, § 55, effective May 24.

28-3-904. Pay and allowances.

Every member of the military forces not salaried as such must receive from the state, while engaged in any service ordered by the governor, pay and allowances at the rate paid or allowed by law to members of similar rank and length of service in the regular Army or regular Air Force of the United States, as the case may be, but each such member must receive at least the pay and allowances provided to an enlisted person in the military forces holding the rank of E-4 with over six years of service. Subject to available appropriations, after a member of the military forces has been engaged in service pursuant to this section for a period of more than thirty consecutive days, the member is eligible to enroll in any benefit plan created for employees of the state, including but not limited to state employee group benefits pursuant to part 6 of article 50 of title 24 and the public employees' retirement association created pursuant to article 51 of title 24.

Source: L. 55: p. 627, § 63. **CRS 53:** § 94-9-63. **C.R.S. 1963:** § 94-1-63. **L. 71:** p. 1046, § 8. **L. 2005:** Entire section amended, p. 662, § 4, effective May 27. **L. 2020:** Entire section amended, (SB 20-091), ch. 24, p. 89, § 1, effective September 14.

28-3-905. Insufficient funds - payment from general fund.

In all cases where any of the military forces are called into active service by the governor and there are no funds otherwise appropriated or available therefor or where the appropriated funds, if any, are insufficient, the payrolls of officers and enlisted men and expense bills shall be audited

by the adjutant general and paid upon the adjutant general's certificate out of the general revenue fund, and the necessary funds are hereby appropriated.

Source: L. 55: p. 627, § 64. **CRS 53:** § 94-9-64. **C.R.S. 1963:** § 94-1-64. **L. 93:** Entire section amended, p. 30, § 1, effective March 18.

28-3-906. Units - corporate structure and powers.

(1) Each federally recognized organization of the National Guard, without any further proceeding other than the filing with the secretary of state of a certificate by the adjutant general to that effect, constitutes a corporate body to be known by the name by which such organization is officially designated under the military laws and regulations of the state and shall possess all the powers necessary and convenient to accomplish the objects and perform the duties prescribed by law.

(2) The members of such military organization in good standing, and no others, shall constitute the members of such corporation and shall elect three trustees who, together with the commanding officer, shall manage and administer the civil business of such corporation. The commanding officer shall be ex officio president, and the trustees shall elect one of their number vice-president, one treasurer, and one secretary.

(3) Each such organization may take, by purchase, devise, gift, or otherwise, and hold, so long as such organization is an existing organization and a part of the National Guard, any property, real or personal. All such property shall be in the custody and control of the trustees provided for in subsection (2) of this section. Such organizations may sell, exchange, or otherwise dispose of property so acquired.

(4) When any such organization is disbanded by proper authority, such corporation shall cease to exist, and all property belonging to it shall become the property of the state of Colorado and be devoted to such military uses as the adjutant general determines. Nothing in this section shall limit the authority vested in the officers of the organization by state or federal law.

Source: L. 55: p. 627, § 65. **CRS 53:** § 94-9-65. **C.R.S. 1963:** § 94-1-65.

PART 10

COURTS-MARTIAL

28-3-1001 to 28-3-1026. (Repealed)

Source: L. 83: Entire part repealed, p. 1195, § 2, effective June 10.

Editor's note: This article was numbered as article 1 of chapter 94, C.R.S. 1963, and this part 10 was subsequently repealed in 1983. For amendments to this part 10 prior to its repeal in 1983, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions relating to courts-martial in the "Colorado Code of Military Justice", see part 2 of article 3.1 of this title.

PART 11

OFFENSES

28-3-1101 to 28-3-1137. (Repealed)

Source: L. 83: Entire part repealed, p. 1195, § 2, effective June 10.

Editor's note: This article was numbered as article 1 of chapter 94, C.R.S. 1963, and this part 11 was subsequently repealed in 1983. For amendments to this part 11 prior to its repeal in 1983, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions relating to military offenses in the "Colorado Code of Military Justice", see part 5 of article 3.1 of this title.

PART 12

MEDALS - DECORATIONS

28-3-1201. Long service medal. (Repealed)

Source: L. 55: p. 641, § 132. **CRS 53:** § 94-9-132. **C.R.S. 1963:** § 94-1-129. **L. 2002:** Entire section amended, p. 602, § 56, effective May 24. **L. 2020:** Entire section repealed, (SB 20-082), ch. 34, p. 110, § 1, effective September 14.

28-3-1202. Meritorious conduct medal.

The department may award a medal, designated as the "meritorious conduct medal", to any person serving in any capacity in or with the department, including in or with the Colorado National Guard, who, when on any duty status except federal service, distinguishes himself or herself by extraordinary heroism or by saving the life of another by physical action or by providing substantial medical treatment of an injury that, had treatment not been administered, would have resulted in the person's death. A second or subsequent award is denoted by a bronze oak-leaf cluster.

Source: L. 55: p. 641, § 133. **CRS 53:** § 94-9-133. **C.R.S. 1963:** § 94-1-130. **L. 2002:** Entire section amended, p. 602, § 57, effective May 24. **L. 2020:** Entire section amended, (SB 20-082), ch. 34, p. 110, § 2, effective September 14.

28-3-1203. Meritorious service medal.

The department may award a medal, designated as the "meritorious service medal", to any person serving in any capacity in or with, or any person acting in support of, any division or office of the department, including the Colorado National Guard, who, when on any duty status except federal service, distinguishes himself or herself by exceptionally meritorious service to the department.

Source: L. 55: p. 642, § 134. **CRS 53:** § 94-9-134. **C.R.S. 1963:** § 94-1-131. **L. 2002:** Entire section amended, p. 602, § 58, effective May 24. **L. 2020:** Entire section amended, (SB 20-082), ch. 34, p. 111, § 3, effective September 14.

28-3-1204. Active service medal.

The department may award a medal, designated as the "active service medal", to any person who is not a member of the military and who has served in or with any division or office of the department, including in the Colorado National Guard in state or federal service, for a period of ten years. The ten years of service do not need to be consecutive. For each subsequent period of ten years of service, the department may award the individual a bronze knot to be worn on the ribbon of the medal.

Source: L. 55: p. 642, § 135. **CRS 53:** § 94-9-135. **C.R.S. 1963:** § 94-1-132. **L. 2005:** Entire section amended, p. 662, § 2, effective May 27. **L. 2020:** Entire section amended, (SB 20-082), ch. 34, p. 111, § 4, effective September 14.

28-3-1204.5. Colorado legion of merit medal.

(1) (a) The department may award a medal, designated as the "Colorado legion of merit medal", to any member of the department, including the Colorado National Guard, who has rendered service in a clearly exceptional, unprecedented, or superior manner in support of the department and who has served in a position of senior leadership or senior command, has demonstrated significant responsibility, served in a position of extremely difficult duty, or was a key individual in mission or duty success.

(b) The department may present the Colorado legion of merit medal upon the member's retirement or the completion of any assignment, mission, or service.

(2) The adjutant general may award the Colorado legion of merit medal to a person who is not a member of the department who has rendered service in a clearly exceptional, unprecedented, or superior manner in support of the department.

Source: L. 2020: Entire section added, (SB 20-082), ch. 34, p. 111, § 5, effective September 14.

28-3-1205. Lapel button.

The department shall, upon request and without cost, give a lapel button denoting membership in the Colorado National Guard to any actively participating officer and enlisted person.

Source: L. 55: p. 642, § 136. **CRS 53:** § 94-9-136. **C.R.S. 1963:** § 94-1-133. **L. 2002:** Entire section amended, p. 602, § 59, effective May 24. **L. 2020:** Entire section amended, (SB 20-082), ch. 34, p. 111, § 6, effective September 14.

28-3-1206. Medals and lapel buttons - design - issue.

The design, procurement, and regulations governing the issue of the medals and lapel buttons provided for in this article shall be as prescribed by the governor in orders through the office of the adjutant general.

Source: L. 55: p. 642, § 137. **CRS 53:** § 94-9-137. **C.R.S. 1963:** § 94-1-134.

28-3-1207. Cost of medals and lapel buttons.

The necessary amounts to defray the costs of providing the medals and lapel buttons authorized by this article shall be deemed a proper charge against the appropriation for the support of the department.

Source: L. 55: p. 642, § 138. **CRS 53:** § 94-9-138. **C.R.S. 1963:** § 94-1-135. **L. 2002:** Entire section amended, p. 362, § 22, effective July 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 121, Session Laws of Colorado 2002.

28-3-1208. Noncommissioned officer/soldier/airman of the year ribbon. (Repealed)

Source: L. 2002: Entire section added, p. 264, § 1, effective April 15. **L. 2020:** Entire section repealed, (SB 20-082), ch. 34, p. 112, § 7, effective September 14.

28-3-1209. Commendation ribbon.

A ribbon, designated as the "commendation ribbon", shall be awarded to any member of the National Guard of Colorado and to any other persons who have distinguished themselves either

by exceptional service to the state of Colorado or by accomplishment of a special act or deed reflecting credit upon the state of Colorado and the National Guard of Colorado.

Source: L. 2002: Entire section added, p. 264, § 1, effective April 15.

28-3-1210. Achievement ribbon.

A ribbon, designated as the "achievement ribbon", shall be awarded to provide recognition to members of the National Guard of Colorado and other persons who have, through their own individual outstanding and exemplary actions, attitude, efforts, and service, contributed to the safekeeping and welfare of citizens of the state of Colorado, the preservation of public and private property, and the improvement of the readiness posture of the National Guard of Colorado or who have accomplished a particularly significant or noteworthy achievement or deed reflecting great credit upon the individual or individuals and the state of Colorado.

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15.

28-3-1211. Adjutant general's outstanding unit citation.

A ribbon, designated as the "adjutant general's outstanding unit citation", shall be awarded for outstanding meritorious performance, on or after June 1, 1995, by any unit assigned to the National Guard of Colorado. Said unit shall display superior performance of an exceptionally difficult task deemed extraordinary and not representing the normal day-to-day circumstances, that sets it apart from other units with similar missions and circumstances.

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15.

28-3-1212. State emergency service ribbon.

A ribbon, designated as the "state emergency service ribbon", shall be awarded to any member of the National Guard of Colorado who is called to state duty in either an active or supportive role for a period of at least one day during a crisis within the state of Colorado, during which crisis the welfare of the residents of Colorado is in peril and where the preservation or protection of public and private property is required.

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15.

28-3-1213. Foreign deployment service ribbon. (Repealed)

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15. **L. 2020:** Entire section repealed, (SB 20-082), ch. 34, p. 112, § 8, effective September 14.

28-3-1214. State mobilization support ribbon. (Repealed)

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15. **L. 2020:** Entire section repealed, (SB 20-082), ch. 34, p. 112, § 9, effective September 14.

28-3-1215. Recruiting ribbon.

A ribbon, designated as the "recruiting ribbon", shall be awarded to an individual in the National Guard who secures enlistment or appointment of at least three individuals within one year or at least five individuals within a period of five years to the National Guard of Colorado.

Source: L. 2002: Entire section added, p. 265, § 1, effective April 15.

28-3-1216. Command tour ribbon. (Repealed)

Source: L. 2005: Entire section added, p. 662, § 3, effective May 27. **L. 2020:** Entire section repealed, (SB 20-082), ch. 34, p. 112, § 10, effective September 14.

PART 13

ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR THE NATIONAL GUARD

28-3-1301. Legislative declaration.

The general assembly hereby finds and declares that drug abuse and drug trafficking are matters of statewide concern and further declares that the state should take advantage of assistance offered by the National Guard in fighting against the spread of drug trafficking and abuse in the state.

Source: L. 89: Entire part added, p. 1253, § 1, effective April 12.

28-3-1302. Commander in chief - order for plan.

The governor, as commander in chief, shall order the adjutant general of the National Guard to prepare, in cooperation with the Colorado bureau of investigation, a drug interdiction and enforcement plan for submission to the secretary of defense of the United States.

Source: L. 89: Entire part added, p. 1253, § 1, effective April 12.

28-3-1303. Drug interdiction and enforcement plan - requirements.

(1) The drug interdiction and enforcement plan required by this part 13 shall be in compliance with the provisions set forth in Pub.L. 100-456, section 1105, and shall specifically request the secretary of defense to provide sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard when utilized in conjunction with the plan. The plan shall specify that such funds are to be used solely for the purpose of drug interdiction and enforcement operations and for the operation and maintenance of the equipment and facilities of the National Guard when used in conjunction with such plan.

(2) Notwithstanding any other provision of law, when participating in operations pursuant to the drug interdiction and enforcement plan required by this part 13, the National Guard shall be considered a law enforcement agency of the state for purposes of accepting, receiving, disposing of, and expending the property and proceeds from any property forfeited to the federal government and allocated to the National Guard pursuant to section 16-13-601, C.R.S.

Source: L. 89: Entire part added, p. 1253, § 1, effective April 12. **L. 2007:** Entire section amended, p. 444, § 3, effective August 3.

Cross references: For the legislative declaration contained in the 2007 act amending this section, see section 1 of chapter 117, Session Laws of Colorado 2007.

28-3-1304. Drug interdiction and enforcement plan - limitations.

The plan shall state specifically that any drug interdiction and enforcement plan approved by the secretary of defense shall be conducted at a time when personnel of the National Guard are not in federal service. The plan shall also specifically state that participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

Source: L. 89: Entire part added, p. 1254, § 1, effective April 12.

28-3-1305. Department of military and veterans affairs counterdrug program federal forfeiture fund - creation.

Any moneys accepted by the adjutant general pursuant to section 16-13-601, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the department of military and veterans affairs counterdrug program federal forfeiture fund, which fund is hereby created in the state treasury and referred to in this section as the "fund". All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. Moneys in the fund shall be continuously appropriated to the department for use by the adjutant general in compliance with state and federal law.

Source: L. 2007: Entire section added, p. 444, § 4, effective August 3.

Cross references: For the legislative declaration contained in the 2007 act enacting this section, see section 1 of chapter 117, Session Laws of Colorado 2007.

PART 14

COLORADO STATE MILITARY SERVICE CIVIL RELIEF ACT

28-3-1401. Short title.

This part 14 shall be known and may be cited as the "Colorado State Military Service Civil Relief Act of 2002".

Source: L. 2002: Entire part added, p. 690, § 1, effective July 1.

28-3-1402. Applicability.

This part 14 shall apply to any person who is called to state military service, as the term "military service" is defined in section 28-3-101, or called to state defense force active duty, as the term is defined in section 28-4-102, for any period of time longer than thirty days and who is ordered by the governor to enforce the law, preserve the peace, secure the rights or lives of citizens, or protect property.

Source: L. 2002: Entire part added, p. 690, § 1, effective July 1. **L. 2003:** Entire section amended, p. 1999, § 56, effective May 22.

28-3-1403. Stay of civil proceedings.

Any court of competent jurisdiction may, on its own motion, stay any civil action or proceeding that involves a person described in section 28-3-1402 for the duration of the period of service or duty and for thirty days thereafter, or may otherwise dispose of the case as may be equitable to conserve the interests of all parties. The court shall stay the proceedings upon the application of a person, or an agent of the person, engaged in state military service or state defense force active duty unless, in the opinion of the court, the ability of the person to prosecute or defend the action is not materially affected.

Source: L. 2002: Entire part added, p. 690, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2000, § 57, effective May 22.

28-3-1404. Actions for rent or possession by landlord.

(1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), an eviction, distress action, or requirement for deposit of accrued rent, as provided for in law, may not proceed against any person described in section 28-3-1402 during the period of service or duty and for thirty days thereafter if:

(I) The person, within thirty days after being called to said service or duty, has given written notice to the affected landlord with regard to any premises; and

(II) The rental unit is occupied chiefly as a residential dwelling by the person, the person's spouse, or a dependent of the person.

(b) A court of competent jurisdiction may allow an action described in paragraph (a) of this subsection (1) to proceed based upon a finding of no substantive prejudice to the person as a result of the service or duty.

(2) The court may, on its own motion, stay the proceedings described in paragraph (a) of subsection (1) of this section for the duration of the period of service or duty and for thirty days thereafter or otherwise dispose of the case as may be equitable to conserve the interests of all parties. The court shall stay the proceedings upon the application of a person, or an agent of the person, engaged in state military service or state defense force active duty unless, in the opinion of the court, the ability of the person to pay the agreed upon rent has not been materially affected by reason of the service or duty.

Source: L. 2002: Entire part added, p. 691, § 1, effective July 1. **L. 2003:** (2) amended, p. 2000, § 58, effective May 22.

28-3-1405. Installment contracts - purchase of property.

(1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), a creditor who has received a deposit or installment of the purchase price under an installment contract for the purchase of real or personal property from a person who, after the date of the payment of such deposit or installment, is called to state military service or state defense force active duty as described in section 28-3-1402, may not:

(I) Exercise any right or option under said contract to rescind or terminate the contract; or

(II) Resume possession of the property.

(b) A creditor described in paragraph (a) of this subsection (1) may rescind or terminate the installment contract or resume possession of the property for nonpayment if:

(I) The person, within thirty days after being called to said service or duty, has not provided the creditor with written notice of the service or duty;

(II) A court of competent jurisdiction has affirmatively authorized such rescission, termination, or possession; or

(III) The nonpayment of any installment under the installment contract or any other breach of the terms thereof did not occur during the period of the service or duty or for thirty days thereafter.

(2) (a) Upon hearing said action, a court may order the repayment of prior installments or deposits or any part thereof as a condition of terminating the contract and resuming possession of the property.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), a court may, on its own motion, stay the proceedings for the duration of the period of service or duty and for thirty days thereafter or otherwise dispose of the case as may be equitable to conserve the interests of all parties. The court shall stay the proceedings upon the application of a person, or an agent of the person, engaged in state military service or state defense force active duty unless, in the opinion of the court, the ability of the person to comply with the terms of the obligation is not materially affected.

Source: L. 2002: Entire part added, p. 691, § 1, effective July 1. **L. 2003:** IP(1)(a) and (2)(b) amended, p. 2000, § 59, effective May 22.

28-3-1406. Mortgage or security on property.

(1) In any proceeding commenced during a period of state military service or state defense force active duty, as described in section 28-3-1402, to enforce obligations secured by a mortgage, trust deed, or other security upon real or personal property owned prior to the commencement of the period of state military service or state defense force active duty, the court may, on its own motion, stay the proceedings for the duration of the period of service or duty and for thirty days thereafter or otherwise dispose of the case as may be equitable to conserve the interests of all parties. The court shall stay the proceedings upon the application of a person, or an agent of the person, engaged in state military service or state defense force active duty unless, in the opinion of the court, the ability of the person to comply with the terms of the obligation is not materially affected.

(2) A sale, foreclosure, or seizure of property for nonpayment of any sum due under any obligation, or for breach of the terms of any such obligation, is not valid if made during a period of state military service or state defense force active duty, as described in section 28-3-1402, or

within thirty days thereafter, unless such sale, foreclosure, or seizure is made upon an order previously granted by the court and a return thereto made and approved by the court.

(3) This section applies only to obligations secured by a mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person described in section 28-3-1402 at the commencement of state military service or state defense force active duty, which obligation originated prior to the person's service or duty and is still owed by the person during the period of service or duty.

Source: L. 2002: Entire part added, p. 692, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2000, § 60, effective May 22.

28-3-1407. Duty to furnish orders.

Before a person shall be entitled to any stay pursuant to this part 14, that person shall furnish to the court and to any other affected parties a copy of the person's orders, together with a written statement from the adjutant general of the state of Colorado, that the person has served continuously on state orders for the period commencing with the date of the orders through the date of the statement. The court or other affected parties may require the person to furnish a recertification every thirty days thereafter, which shall be furnished to the person by the adjutant general upon request.

Source: L. 2002: Entire part added, p. 693, § 1, effective July 1.

PART 15

MILITARY FAMILY RELIEF FUND

28-3-1501. Legislative declaration.

The general assembly hereby finds and declares that, due to the many mobilizations subsequent to the September 11, 2001, terrorist attacks, many families of Colorado National Guard members and reservists face financial hardships when the National Guard member or reservist is called to active military duty or state active duty because the military pay of a soldier is often far less than his or her civilian salary. Because private companies often do not make up the difference in salary, military families may see a significant drop in household income while a family member is away on active military duty or state active duty. In addition, active duty military personnel and their families encounter additional hardships when the active duty

member is deployed to zones in which he or she will encounter hostile fire. Many families of Colorado National Guard members, reservists, and active duty military personnel also face additional expenses caused by a long family separation. The general assembly further finds and declares that grants from the military family relief fund are intended to help families defray the costs of food, housing, utilities, medical services, and other expenses that may be difficult to afford when a family member leaves civilian employment for active military duty, is on active military duty in a hostile fire zone, or is called to state active duty by executive order of the governor.

Source: L. 2005: Entire part added, p. 652, § 1, effective May 27; entire section amended, p. 658, § 1, effective May 27. **L. 2014:** Entire section amended, (HB 14-1277), ch. 130, p. 455, § 1, effective April 25. **L. 2015:** Entire section amended, HB 15-1052, ch. 4, p. 9, § 1, effective August 5.

28-3-1501.5. Definitions.

As used in this part 15, unless the context otherwise requires:

(1) "Fund" means the military family relief fund created in section 28-3-1502 (1).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2084, § 243, effective August 6.

28-3-1502. Military family relief fund - creation.

(1) There is hereby created in the state treasury the military family relief fund. The fund shall consist of gifts, grants, and donations to the fund, which the adjutant general is authorized to accept, and any voluntary contributions made to the fund pursuant to part 30 of article 22 of title 39.

(2) The adjutant general shall transfer any gifts, grants, and donations to the fund to the state treasurer who shall credit the same to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. All moneys remaining in the fund at the end of a fiscal year shall be transferred to the Colorado National Guard foundation, a Colorado nonprofit organization. The foundation shall administer such moneys pursuant to section 28-3-1503.

Source: L. 2005: Entire part added, p. 653, § 1, effective May 27. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2084, § 244, effective August 6.

28-3-1503. Administration of moneys.

(1) (a) The Colorado National Guard foundation shall make grants from the fund to members of the Colorado National Guard or reservists, to active duty military personnel stationed in Colorado, or to the families of members of the Colorado National Guard or reservists or active duty military personnel stationed in Colorado subject to the provisions of this section.

(b) The Colorado National Guard foundation, in cooperation with the department, shall develop criteria for awarding the grants to members of the Colorado National Guard and reservists, subject to the provisions of subsection (2) of this section.

(c) The Air Force aid society and Army emergency relief shall work in cooperation to develop criteria for awarding the grants to active duty military personnel, subject to the provisions of subsection (2.5) of this section.

(2) A member of the Colorado National Guard or a reservist shall meet the following requirements to be eligible to receive a grant from the fund:

(a) The National Guard member or reservist is currently on active military duty for a minimum of thirty days on mobilization orders pursuant to title 10 of the United States Code or is called to state active duty by executive order of the governor.

(b) (Deleted by amendment, L. 2007, p. 2083, § 1, effective June 4, 2007.)

(c) The National Guard member or reservist or the family of the National Guard member or reservist applies for a grant as required by the Colorado National Guard foundation.

(d) The National Guard member or reservist is a Colorado resident as evidenced by a Colorado income tax return for the then current or previous fiscal year on which the National Guard member or reservist filed as a Colorado resident.

(2.5) Any active duty military member stationed in Colorado shall meet the following requirements to be eligible to receive a grant from the fund:

(a) The active duty military member has been deployed overseas and is in receipt of hostile fire pay or the equivalent.

(b) (Deleted by amendment, L. 2007, p. 2083, § 1, effective June 4, 2007.)

(c) The active duty military member or the family of the active duty military member applies for a grant as required by the Colorado National Guard foundation.

(d) The active duty military member is stationed in Colorado as verified by his or her commanding officer.

(e) The active duty military member is a Colorado resident for income tax purposes.

(3) (a) Each National Guard member or reservist or the family of a National Guard member or reservist may apply to the Colorado National Guard foundation for one grant per set of mobilization orders or per executive order. Subject to the provisions of paragraph (c) of this subsection (3), if the foundation determines that the National Guard member or reservist or the family of a National Guard member or reservist is eligible to receive a grant pursuant to this section, the foundation shall issue the grant.

(b) Each active duty military member or the family of an active duty military member may apply to the Air Force aid society or Army emergency relief, as appropriate, for one grant per deployment to a zone in which the active duty military member qualifies to receive hostile fire pay or the equivalent. If the Air Force aid society or Army emergency relief determines that the active duty military member or the family of an active duty military member is eligible to receive a grant pursuant to this section, the Air Force aid society or Army emergency relief shall notify the Colorado National Guard foundation, in writing, of the active duty military member or family member that is eligible to receive a grant. Subject to the provisions of paragraph (c) of this subsection (3), upon receipt of such notification, the foundation shall issue the grant.

(c) The Colorado National Guard foundation shall award grants in accordance with the criteria developed for awarding grants pursuant to subsection (1) of this section. In awarding the grants, the foundation shall, to the extent possible, prioritize eligible grant applicants who hold the lowest pay grades. Timeliness of payment will be determined by the amount of funds available at the time of application.

(4) The Colorado National Guard foundation may be reimbursed from the moneys in the fund for actual expenses incurred in implementing the provisions of this part 15; except that the total annual reimbursement to the foundation shall not exceed an amount equal to five percent of the amount of fund moneys transferred to the foundation in such year.

(5) The department shall have the authority to oversee the grants issued by the Colorado National Guard foundation from the fund pursuant to this part 15.

Source: L. 2005: Entire part added, p. 653, § 1, effective May 27; (1) and (3) amended and (2.5) added, p. 659, § 2, effective May 27. **L. 2007:** (2)(b), (2.5)(b), and (3)(c) amended, p. 2083, § 1, effective June 4. **L. 2014:** (2)(a) and (3)(a) amended, (HB14-1277), ch. 130, p. 456, § 2, effective April 25. **L. 2015:** (2)(a) amended, HB 15-1052, ch. 4, p. 10, § 2, effective August 5.

28-3-1504. Moneys remaining in military family relief fund.

In the event that the voluntary contribution program created in part 30 of article 22 of title 39, C.R.S., is not continued or reestablished by the general assembly, the Colorado National Guard foundation may donate any moneys remaining in the fund upon the repeal of the voluntary contribution program to the western slope military veterans' cemetery fund created in section 28-5-708 (1)(a).

Source: L. 2005: Entire part added, p. 654, § 1, effective May 27.

PART 16

REAL PROPERTY

Editor's note: This part 16 was originally numbered as part 15 in Senate Bill 05-240 but has been renumbered on revision for ease of location.

28-3-1601. Legislative declaration.

(1) The general assembly hereby finds and declares that there are no suitable National Guard training and maintenance facilities in the Grand Junction area to serve the members of the Colorado National Guard and the state. The general assembly believes that the state owes a duty to all of its National Guard members to assist in providing adequate training and maintenance facilities.

(2) The property specified to be used for the purpose described in subsection (1) of this section was received from the federal government to be used for any public purpose authorized by the general assembly. The general assembly hereby declares the specified property should be used for National Guard training and maintenance facilities and the requested transfers of appropriate property rights from the department of human services and the state board of land commissioners to the department should be made without compensation.

Source: L. 2005: Entire part added, p. 1033, § 2, effective June 2.

28-3-1601.5. Definitions.

As used in this part 16, unless the context otherwise requires:

(1) "Guard facilities" means National Guard facilities as described in section 28-3-1602 (1)(a).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2085, § 245, effective August 6.

28-3-1602. Establishment of National Guard facilities - rules - budget request - legislative declaration.

(1) (a) If rights to the property described in section 28-3-1603 are transferred to the department, the general assembly hereby authorizes the establishment and maintenance of National Guard facilities located adjacent to the western slope military veterans' cemetery. The guard facilities shall be for the purpose of providing an area for National Guard training and maintenance as determined to be necessary by the department. The adjutant general shall promulgate such rules as may be necessary to establish and maintain the guard facilities in compliance with applicable state and federal statutes and rules. The department is directed to prepare, develop, construct, and maintain such guard facilities at the site described in section 28-3-1603. The department may enter into contracts or agreements with any person or public or private entity to prepare, develop, construct, operate, and maintain the guard facilities. The department is hereby authorized to provide for surveys, engineering studies, conceptual and architectural plans, environmental impact studies, construction work, facilities master plans, and joint use agreements in cooperation with the department of human services and the state board of land commissioners.

(b) The adjutant general shall determine the amount of the appropriation necessary to meet the requirements set forth in paragraph (a) of this subsection (1) and shall submit a request as part of the department's annual budget request to the joint budget committee no later than November 1, 2007.

(2) The general assembly hereby finds, determines, and declares that any use of the property described in section 28-3-1603 as guard facilities is for a public purpose expressly authorized by the general assembly and therefore permissible under any grant of right-of-way applicable to such property executed by the state board of land commissioners.

Source: L. 2005: Entire part added, p. 1033, § 2, effective June 2. **L. 2025:** (1)(a) amended, (SB 25-275), ch. 377, p. 2085, § 246, effective August 6.

28-3-1603. Location of National Guard facilities.

The department, in preparing, developing, constructing, and maintaining the guard facilities, may use for such purposes a parcel consisting of approximately thirty-five acres, as determined by the facilities master plan, of existing improved and unimproved property surrounding the western slope military veterans' cemetery within the eastern portion of the real property known as the Grand Junction regional center; except that the parcel shall not include the approximately twenty acres currently serving the western slope military veterans' cemetery. The department shall enter into all necessary agreements to secure the appropriate property rights for such parcel, including the shared use of the existing structure in cooperation with the department of human services. The general assembly requests the department of human services and the state board of land commissioners to transfer, without compensation, appropriate rights to the property described in this section to the department within two months of the completion of a legal survey of the property described in this section.

Source: L. 2005: Entire part added, p. 1034, § 2, effective June 2.

PART 17

YOUTH CHALLENGE CORPS PROGRAM

28-3-1701. Short title.

This part 17 shall be known and may be cited as the "Colorado Youth Challenge Corps Program Act".

Source: L. 2009: Entire part added, (HB 09-1280), ch. 384, p. 2083, § 1, effective August 5.

28-3-1702. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) The need for educating at-risk or disruptive youth is well established;

(b) Recognizing the need for special programs to address positive youth development, the United States congress authorized and appropriated moneys for the use of National Guard or other facilities and equipment for the provision of a program designed to improve the employment potential and life skills of eligible youth through National Guard youth challenge corps programs; and

(c) An evaluation of similar programs for eligible youth operating in other states indicates that:

(I) Eighty percent of the students accepted into these programs went on to graduate from the programs;

(II) Eighty percent of the students in these programs were placed in schools or employed at the time of graduation from the programs;

(III) Eighty percent of the students in these programs successfully completed a high school equivalency examination, either during the time in which they were participating in the programs or within one year after graduating from the programs; and

(IV) Less than one percent of the students who participated in these programs were incarcerated within one year after graduating from the programs.

(2) Therefore, the general assembly hereby finds and declares that it would be in the best interest of the people of the state of Colorado to authorize the department to operate a youth challenge corps program and to take advantage of the opportunity to use National Guard or other facilities and equipment and any federal funding that may be available for such a program as authorized by federal law.

Source: L. 2009: Entire part added, (HB 09-1280), ch. 384, p. 2083, § 1, effective August 5. **L. 2014:** (1)(c)(III) amended, (SB 14-058), ch. 102, p. 384, § 20, effective April 7.

28-3-1703. Definitions.

As used in this part 17, unless the context otherwise requires:

(1) "Eligible youth" means a person who has voluntarily consented, with the written permission of his or her parent or guardian if the person is a minor, to participate in the National Guard youth challenge corps program and the United States congressional youth awards program and to act in accordance with program requirements. Additionally, an eligible youth shall be:

(a) At least sixteen years of age but less than nineteen years of age;

(b) A high school dropout, suspended or expelled from school, habitually truant, or otherwise habitually disruptive in school;

(c) Economically and educationally disadvantaged;

(d) Unemployed;

(e) Drug-free;

(f) Free of felony convictions or capital offenses, not indicted or charged with a crime, and not on parole or probation for anything other than juvenile status offenses; and

(g) Physically and mentally capable of participating in the program with reasonable accommodations for physical or other disabilities.

(1.5) "Fund" means the youth challenge corps program fund created in section 28-3-1704 (5)(b).

(2) "High school equivalency examination" means the state-board-approved battery of tests that are designed to measure the major outcomes and concepts generally associated with four years of high school education and that are administered at a testing center that has been approved by the department of education based on geographic need and testing volume.

(3) "Program" means the youth challenge corps program authorized and described in section 28-3-1704.

Source: L. 2009: Entire part added, (HB 09-1280), ch. 384, p. 2084, § 1, effective August 5. **L. 2014:** (2) amended, (SB 14-058), ch. 102, p. 384, § 21, effective April 7. **L. 2025:** (1.5) added, (SB 25-275), ch. 377, p. 2085, § 247, effective August 6.

28-3-1704. Youth challenge corps program - authority - youth challenge corps program fund - creation.

(1) The department is hereby authorized to operate a youth challenge corps program through the use of National Guard or other facilities and equipment for the purpose of providing eligible youth with a program to help them obtain a high school diploma or successfully complete a high school equivalency examination, increase their employment potential, and enhance their education and life skills. The program must be structured as a five-and-one-half-month residential phase that focuses on education and practical life skills, followed by a twelve-month, post-residential phase that involves skilled and trained mentors who support the program graduates. The department is not obligated to implement the program if adequate appropriations or federal or other moneys are not available.

(2) The program shall comply with the criteria and conditions specified in a cooperative agreement entered into between the chief of the federal National Guard bureau and the state of Colorado.

(3) The program must comply with any applicable state licensing requirements and must establish a collaborative partnership composed of a representative from, at a minimum, the following:

(a) The state departments of education, public health and environment, labor, judicial, public safety, and human services;

(b) A director of a county department of human or social services;

(c) A school district;

(d) A sheriff or police department; and

(e) A community agency that serves youth and three appointed advisory youth members from the agency's service population.

(4) The adjutant general of the department, or the adjutant general's designee, is directed to apply for any federal moneys that may be available to the state for the implementation and operation of the program.

(5) (a) The adjutant general of the department, or the adjutant general's designee, is authorized to accept on behalf of the state any gifts, grants, or donations from any private or public source for the purpose of implementing this part 17; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this part 17 or any other law of the state.

(b) All private and public moneys received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the youth challenge corps program fund, which fund is hereby created. The moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with the implementation and administration of this part 17. All investment earnings derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year.

Source: L. 2009: Entire part added, (HB 09-1280), ch. 384, p. 2085, § 1, effective August 5. **L. 2014:** (1) amended, (SB 14-058), ch. 102, p. 385, § 22, effective April 7. **L. 2018:** IP(3) and (3)(b) amended, (SB 18-092), ch. 38, p. 453, § 141, effective August 8. **L. 2025:** (5)(b) amended, (SB 25-275), ch. 377, p. 2085, § 248, effective August 6.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

ARTICLE 3.1

Colorado Code of Military Justice

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PART 1

GENERAL PROVISIONS

28-3.1-101. Short title.

This article shall be known and may be cited as the "Colorado Code of Military Justice".

Source: L. 83: Entire article added, p. 1162, § 1, effective June 10.

28-3.1-102. Definitions.

As used in this article 3.1, unless the context otherwise requires:

(1) "Accuser" means any person who signs and swears to charges, any person who directs that charges be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.

(2) Repealed.

(2.3) "Cadet" or "candidate" means a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned or warrant officer in the state military forces.

(2.7) "Classified information" means:

(a) Any information or material that has been determined by an official of the United States or any state pursuant to law, executive order, or regulation to require protection against unauthorized disclosure for reasons of national or state security; and

(b) Any restricted data, as defined in section 11 of the federal "Atomic Energy Act of 1954", 42 U.S.C. sec. 2014 (y).

(3) "Code" means the Colorado code of military justice.

(4) "Commanding officer" means a commissioned officer or warrant officer in a position of command, or a commissioned officer in charge when he or she is administering nonjudicial punishment pursuant to section 28-3.1-114.

(5) "Commissioned officer" means a person who holds the rank of not less than second lieutenant.

(6) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command.

(6.5) "Dismissal" means a punitive separation that applies only to commissioned officers, commissioned warrant officers, candidates, and cadets and may be adjudged by a general court-martial. A dismissal may be adjudged for any offense for which a commissioned officer, commissioned warrant officer, candidate, or cadet has been found guilty.

(7) "Enlisted member" means any person who is serving in an enlisted grade.

(8) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation.

(9) "Hostile force" means any person or group of persons acting in violation of the law or opposing the military force in the carrying out of its missions, including but not limited to saboteurs, rioters, and looters.

(10) "Judge advocate" means any commissioned officer who is certified by the state judge advocate general.

(10.5) "Junior enlisted" means an enlisted person holding the rank of E-1 through E-4.

(11) "Legal officer" means any commissioned officer of the state military forces designated to perform legal duties of a command.

(12) "Military" or "military forces" refers to any or all of the state military forces.

(13) "Military court" means a court-martial, a court of inquiry, or a provost court.

(14) "Military judge" means an official of general and special courts-martial detailed in accordance with section 28-3.1-210.

(14.3) "National Guard" means the Army National Guard, the Air National Guard, and any other component created or authorized under the laws of the United States to serve in a similar manner pursuant to title 32 of the United States Code.

(14.5) "Noncommissioned officer" means an enlisted person holding the rank of E-5 through E-9.

(15) "Officer" means a commissioned or warrant officer.

(16) "Officer candidate" means a cadet of the state officer candidate school.

(17) "President" means the member of the court highest in grade and rank.

(18) "Rank" means order of precedence among members of the state military forces.

(18.4) "Safeguard" means a detachment, guard, or detail posted by a commander for the protection of persons, places, or property of the enemy or of a neutral party affected by the relationship of belligerent forces in their prosecution of war or during circumstances amounting to a state of belligerency, including a written order left by a commander with an enemy subject or posted upon enemy property for the protection of that person or property.

(18.7) "State active duty" means all duty authorized under the constitution and laws of the state of Colorado and all training authorized under Title 32 of the United States Code, as amended.

(19) "State judge advocate general" means the judge advocate general of the state military forces, appointed pursuant to section 28-3.1-106, who is responsible for supervising the administration of military justice in the state military forces and performing such other legal duties as may be required by the adjutant general.

(20) "State military forces" means the National Guard of this state and any other militia or military forces organized under the laws of the state.

(21) "Superior commissioned officer" means a commissioned officer superior in rank of command.

(21.5) "Uniform Code of Military Justice" means the federal "Uniform Code of Military Justice", 10 U.S.C. sec. 801 et seq.

(22) "Unit training assembly" means an authorized and scheduled training period of not less than four hours duration. Unit training assemblies are authorized pursuant to 32 U.S.C. sec. 502, as amended, and may be conducted with or without pay.

(23) "Warrant officer" means a person who holds the rank of warrant officer one through chief warrant officer five. These persons rank above enlisted personnel and below commissioned officers.

Source: L. 83: Entire article added, p. 1162, § 1, effective June 10. **L. 2002:** (20) amended, p. 362, § 23, effective July 1. **L. 2018:** IP and (4) amended, (2) repealed, and (2.3), (2.7), (6.5), (10.5), (14.5), (18.4), (18.7), (22), and (23) added, (SB 18-135), ch. 95, p. 740, § 1, effective April 2. **L. 2025:** (14.3) and (21.5) added and (20) amended, (SB 25-279), ch. 411, p. 2332, § 1, effective September 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (20), see section 1 of chapter 121, Session Laws of Colorado 2002.

28-3.1-102.5. Construction of code - incorporation of federal "Uniform Code of Military Justice" - references to regulations - legislative intent.

(1) The general assembly intends that the state military forces be regulated in a manner consistent with the regulation of the armed forces of the United States and that the "Colorado Code of Military Justice" enacted in this article 3.1 be construed consistent with this purpose.

(2) (a) The federal "Uniform Code of Military Justice", federal rules adopted pursuant to the federal "Uniform Code of Military Justice", and the manual for courts-martial United States published by the federal department of defense are incorporated into the "Colorado Code of Military Justice", this article 3.1, and govern and are applicable to the state military forces, including the Colorado National Guard, except as otherwise provided in this article 3.1 and regulations adopted by the governor.

(b) For the purposes of this article 3.1, references in the federal "Uniform Code of Military Justice", federal rules adopted pursuant to the "Uniform Code of Military Justice", and the manual for courts-martial United States to:

(I) The president of the United States means the governor, and the duties, functions, and authority of the president are attributable to the governor;

(II) The secretary or secretary concerned means the adjutant general of this state, and the duties, functions, and authority of the secretary or secretary concerned are attributable to the adjutant general; and

(III) The armed forces, the Army of the United States, the United States Air Force, or similar military organizations includes military, military forces, the military services, and state military forces.

(3) References in this article 3.1 to the governor's regulations include regulations prepared by the adjutant general and approved by the governor pursuant to section 28-3-106 (1)(j).

Source: L. 2025: Entire section added, (SB 25-279), ch. 411, p. 2332, § 2, effective September 1.

28-3.1-103. Persons subject to this code.

This code applies to all members of the state military forces at all times; except that this code does not apply to a member of the state military forces while ordered to active federal service pursuant to title 10 of the United States Code.

Source: L. 83: Entire article added, p. 1163, § 1, effective June 10. **L. 91:** Entire section amended, p. 1377, § 1, effective April 1. **L. 2025:** Entire section amended, (SB 25-279), ch. 411, p. 2333, § 3, effective September 1.

28-3.1-104. Jurisdiction to try certain personnel.

(1) Any person discharged from the military forces who is later charged with having fraudulently obtained his or her discharge is subject to trial by court-martial on that charge and, after apprehension, shall be subject to this code while in the custody of the military for that trial. Upon conviction of that charge, he or she is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

(2) No person who has deserted from the military forces may be relieved from the jurisdiction of this code by virtue of a separation from any later period of service.

(3) The fact that the enlistment of any person charged with an offense under this code expires while proceedings are pending or while serving a sentence shall not affect the jurisdiction of any court-martial.

(4) Nothing in this code shall preclude applicable federal or state jurisdiction over offenses committed.

Source: L. 83: Entire article added, p. 1164, § 1, effective June 10. **L. 2002:** (1) amended, p. 602, § 60, effective May 24.

28-3.1-105. Territorial applicability of this code.

(1) This code applies to all persons otherwise subject to this code, either in title 32 of the United States Code, as amended, or state active duty status, while they are serving outside the state and while they are going to and returning from such service outside the state in the same manner and to the same extent as if they were serving inside the state.

(2) Courts-martial and courts of inquiry may be convened and held in units of the military forces while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state. Offenses committed outside the state may be tried and punished either inside or outside the state.

(3) This code does not apply to persons serving under title 10 of the United States Code, as amended.

Source: L. 83: Entire article added, p. 1164, § 1, June 10. **L. 2018:** (1) amended and (3) added, (SB 18-135), ch. 95, p. 741, § 2, effective April 2.

28-3.1-106. State judge advocate general and judge advocates.

(1) The adjutant general shall select and appoint an officer of the military forces as state judge advocate general. To be eligible for such appointment, an officer must be a member of the bar of the state of Colorado for at least five years and must meet the additional requirements for appointment to the state staff as set forth in section 28-3-302.

(2) The adjutant general may appoint as many assistant state judge advocates as he or she considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the state military forces and members in good standing of the bar of the state of Colorado.

(3) Convening authorities shall at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice. The staff judge advocate of

any command is entitled to communicate directly with the staff judge advocate of a superior or subordinate command or with the state judge advocate general.

(4) No person who has acted as a member military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer in any case or who has been a witness for either the prosecution or defense in any case may later act as staff judge advocate to any reviewing authority upon the same case.

Source: L. 83: Entire article added, p. 1164, § 1, effective June 10. **L. 2002:** (2) amended, p. 603, § 61, effective May 24. **L. 2018:** (2) amended, (SB 18-135), ch. 95, p. 742, § 3, effective April 2.

28-3.1-107. Apprehension and restraint.

(1) Officers, warrant officers, and enlisted members of the military forces may be placed in arrest by their military superiors upon reasonable belief that an offense in violation of this code has been committed and that the person apprehended committed such offense. An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members subject to his or her authority into arrest or confinement. A commissioned officer or warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he or she is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated. No person may be ordered apprehended or into arrest or confinement except for probable cause. This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

(2) If any member of the military forces fails or refuses to report to his or her appointed place of duty, his or her commanding officer is authorized to arrest or cause to be arrested such member and have him or her brought before the commanding officer at his or her unit or organization headquarters, whether such headquarters be located within or without the borders of the state. After such an arrest, the commanding officer is authorized to transport such member to his or her appointed place of duty, whether within or without the borders of the state. If military personnel are not available for the purpose of making the arrest, or if the commanding officer deems it advisable, he or she may issue a warrant to any peace officer authorized to serve warrants of arrest under state criminal law, and such peace officer is authorized and required to serve such warrant in the same manner as other warrants of arrest and make return thereof to the commanding officer issuing the warrant.

(3) If the commanding officer issuing the warrant is unavailable to receive the person arrested, the arresting officer shall take the person before a county court judge in the state. The judge may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he or she deems proper, conditioned upon the person arrested appearing before said judge at a time specified in such bond for his or her surrender to the commanding officer issuing the warrant or to his or her representative. If the person arrested is unable to post bail, he or she shall be committed by the judge to the county jail for a period of time not to exceed three days to await surrender to the commanding officer issuing the warrant or to his or her representative.

(4) Warrants of arrest issued pursuant to this section shall be in the following form:

STATE OF _____)

) ss.

COUNTY OF _____)

To the (Sheriff), (Constable), (Chief of Police) of _____ (Or the name and rank of the officer, First Sergeant, or N.C.O. ordered to make the arrest) of _____

County _____:

_____

(name of individual to be arrested, rank, serial number)

a member of _____, Colorado National Guard, having failed or refused

(unit designation)

to report to his or her appointed place of duty at _____, you are therefore commanded forthwith to arrest the above named _____

(name of individual to be arrested)

and bring him or her before me at _____.

(unit headquarters)

The arrest is authorized to be made either during the day or at night. Dated at _____, this _____ day of _____, 20___.

/s/_____

(Type signer's name, rank, branch,

organization, and designation

as commanding officer)

(5) The fees and mileage allowed for the service of warrants of arrest issued pursuant to this section shall be the same as provided by law for the service of criminal process and shall be paid out of funds appropriated to the office of the adjutant general upon proper application therefor.

Source: L. 83: Entire article added, p. 1165, § 1, effective June 10. **L. 2002:** (1) to (4) amended, p. 603, § 62, effective May 24. **L. 2018:** (1) amended, (SB 18-135), ch. 95, p. 742, § 4, effective April 2.

28-3.1-108. Apprehension of deserters.

Any officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or the District of Columbia may summarily apprehend a deserter from the military forces. If the offender is apprehended outside the state of Colorado, his or her return to Colorado must be in accordance with normal extradition procedure or reciprocal agreement.

Source: L. 83: Entire article added, p. 1166, § 1, effective June 10. **L. 2002:** Entire section amended, p. 604, § 63, effective May 24.

28-3.1-109. Restraint of persons charged with offenses.

Any person subject to this code who is charged with an offense under this code may be ordered into arrest or confinement by the convening authority, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him or her of the specific offense of which he or she is accused and to try him or her or to dismiss the charges and release him or her.

Source: L. 83: Entire article added, p. 1166, § 1, effective June 10. **L. 2002:** Entire section amended, p. 604, § 64, effective May 24.

28-3.1-110. Confinement.

(1) Persons confined other than in a guardhouse, whether before, during, or after trial by a military court, shall be confined in a jail in the county where the offense was committed or a jail designated by the convening authority, the costs of such confinement to be paid out of funds appropriated to the office of the adjutant general.

(2) No provost marshal, commander of a guard, or master-at-arms, and no warden, sheriff, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under subsection (1) of this section may refuse to receive or keep any prisoner committed to his or her charge when the committing person furnishes a statement signed by him or her of the offense charged against the prisoner.

(3) Every commander of a guard, every master-at-arms, and every warden, sheriff, keeper, or officer of a city or county jail or of any other jail, penitentiary, or prison designated under subsection (1) of this section to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he or she is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him or her, and the name of the person who ordered or authorized the commitment.

Source: L. 83: Entire article added, p. 1166, § 1, effective June 10. **L. 2002:** (2) and (3) amended, p. 605, § 65, effective May 24.

28-3.1-111. Confinement with enemy prisoners prohibited. (Repealed)

Source: L. 83: Entire article added, p. 1167, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-112. Punishment prohibited before trial. (Repealed)

Source: L. 83: Entire article added, p. 1167, § 1, effective June 10. **L. 2002:** Entire section amended, p. 605, § 66, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-113. Delivery of offenders to civil authorities. (Repealed)

Source: L. 83: Entire article added, p. 1167, § 1, effective June 10. **L. 2002:** (2) amended, p. 605, § 67, effective May 24. **L. 2018:** (1) amended, (SB 18-135), ch. 95, p. 742, § 5, effective April 2. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-114. Commanding officer's nonjudicial punishment.

(1) (a) Punishment may be imposed for any offense cognizable by a court-martial upon any member of the state military forces under this section. The governor may, by regulation, prescribe limitations on the powers granted in this section with respect to:

(I) The kind and amount of punishment authorized, the suspension of punishment, and the levels of commanding officers and warrant officers exercising command authorized to exercise those powers; and

(II) The kinds of courts-martial to which a case may be referred upon a demand for a trial by court-martial by the accused member of the state military forces.

(b) Except in the case of the imposition of fines upon officers and warrant officers, punishment must not be imposed upon a member of the state military forces pursuant to this section if the member has, before the imposition of punishment, demanded trial by court-martial in lieu of punishment.

(c) If authorized by regulations of the governor, a commanding officer who, pursuant to this code, is authorized to exercise general court-martial jurisdiction or an officer of general rank in command may delegate the officer's powers pursuant to this section to a principal assistant.

(2) Subject to subsection (1) of this section, a commanding officer may, in addition to or in lieu of admonition or punitive reprimand, impose one or more of the following disciplinary punishments without the intervention of a court-martial:

(a) Upon a commissioned or warrant officer of the commanding officer's command:

(I) Repealed.

(II) Restriction to certain specified limits, with or without suspension from duty, for not more than two weeks, which need not be consecutive;

(III) A fine or forfeiture of pay and allowances of not more than the amount of pay and allowances received for four unit training assemblies or four days of annual training, whichever is applicable according to duty status;

(IV) An admonition;

(V) A reprimand; or

(VI) If imposed by a commanding officer who has the authority to exercise general court-martial jurisdiction or an officer of general or flag rank in command:

(A) Arrest in quarters for not more than thirty consecutive days; or

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than thirty consecutive days;

(b) Upon other military personnel of the commanding officer's command:

(I) Repealed.

(II) Restriction to certain specified limits, with or without suspension from duty, for not more than two weeks, which need not be consecutive;

(III) Extra duties for not more than fourteen days, which need not be consecutive, and for not more than two hours per day, holidays included;

(IV) Reduction in rank, as authorized by regulations adopted by the governor;

(V) A fine or forfeiture of pay and allowances of not more than four unit training assemblies or four days of annual training, whichever is applicable according to duty status;

(VI) An admonition; or

(VII) A reprimand.

(2.5) Repealed.

(3) The governor may, by regulation, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the levels of commanding officers and warrant officers exercising command authorized to exercise those powers.

(4) An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of which he or she is in charge, the punishments authorized to be imposed by commanding officers.

(4.4) Maximum allowable punishments, restrictions, and extra duties must not be combined to run consecutively.

(4.7) The officer who imposes the punishment pursuant to this section, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

(5) Except where punishment has been imposed by the governor, a person punished under this section who considers such punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his or her successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this section; but the fact that disciplinary punishment has been enforced may be shown by the accused upon trial and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) Whenever a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on and after the date that punishment is imposed and to pay and allowances accrued before that date.

Source: L. 83: Entire article added, p. 1167, § 1, effective June 10. **L. 86:** (1) and (2)(b)(V) amended, p. 1014, § 2, effective July 1. **L. 91:** (2)(b)(V) amended, p. 1377, § 2, effective April 1. **L. 2002:** (1), IP(2)(a), IP(2)(b), (2)(b)(IV), (4), and (5) amended, p. 605, § 68, effective May 24. **L. 2018:** (1), IP(2), (2)(a), (2)(b)(I), (2)(b)(II), (2)(b)(IV), (2)(b)(V), and (3) amended and (2.5), (4.4), and (4.7) added, (SB 18-135), ch. 95, p. 742, § 6, effective April 2. **L. 2025:** (1), IP(2), IP(2)(a), (2)(a)(III), (2)(a)(IV), (2)(a)(V), IP(2)(b), (2)(b)(IV), (2)(b)(V), (4.4), and (4.7) amended, (2)(a)(I), (2)(b)(I), and (2.5) repealed, and (2)(a)(VI), (2)(b)(VI), and (2)(b)(VII) added, (SB 25-279), ch. 411, p. 2333, § 4, effective September 1.

PART 2

COURTS-MARTIAL

28-3.1-201. Courts-martial - jurisdiction - composition.

(1) In the military forces general, special, and summary courts-martial shall be constituted like similar courts of the armed forces of the United States. They shall have the jurisdiction and powers, except as to punishment, of a similar court of the armed forces of the United States and shall follow the forms and procedures provided by those courts.

(2) The three kinds of courts-martial are:

(a) General courts-martial, consisting of a military judge and not less than five members, or consisting of only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves;

(b) Special courts-martial, which are either of the following types:

(I) A special court-martial consisting of a military judge and not less than three members. A special court-martial consisting of a military judge and not less than three members as described in this subsection (2)(b)(I) is subject to section 28-3.1-204 (2)(a)(I) and (2)(b) and any limitations prescribed in regulation.

(II) A special court-martial consisting of only a military judge, if the accused so requests under the same conditions as those prescribed in subsection (2)(a) of this section or if the case is so referred by the convening authority. A special court-martial consisting of only a military judge as described in this subsection (2)(b)(II) is subject to section 28-3.1-204 (2)(a)(II) and (2)(b) and any limitations prescribed in regulation.

(c) Summary courts-martial, consisting of one commissioned officer.

Source: L. 83: Entire article added, p. 1169, § 1, effective June 10. **L. 2025:** (2)(b) amended, (SB 25-279), ch. 411, p. 2336, § 5, effective September 1.

28-3.1-202. Complete record of proceedings and testimony - when required.

A dishonorable discharge or dismissal may not be adjudged unless a verbatim record of the proceedings and testimony before the court has been made.

Source: L. 83: Entire article added, p. 1169, § 1, effective June 10.

28-3.1-203. Jurisdiction of general courts-martial.

(1) General courts-martial have jurisdiction to try persons subject to this code for an offense punishable under this code and may adjudge any of the following punishments:

(a) Confinement for not more than five years, unless otherwise specified in this code;

(b) A fine of any amount up to the maximum pay and allowances received for eight unit training assemblies or eight days of annual training, whichever is applicable according to duty status;

(c) Forfeiture of pay and allowances of any amount up to the maximum pay received for eight unit training assemblies or eight days of annual training, whichever is applicable according to duty status;

(d) A reprimand;

(e) Dismissal, dishonorable discharge, or bad conduct discharge;

(f) Reduction of enlisted personnel to any inferior grade; or

(g) Any combination of these punishments.

Source: L. 83: Entire article added, p. 1169, § 1, effective June 10. **L. 2018:** (1)(a), (1)(b), and (1)(c) amended, (SB 18-135), ch. 95, p. 744, § 7, effective April 2. **L. 2025:** IP(1), (1)(a), (1)(e), and (1)(f) amended, (SB 25-279), ch. 411, p. 2336, § 6, effective September 1.

28-3.1-204. Jurisdiction of special courts-martial.

(1) Special courts-martial have jurisdiction to try a person subject to this code for an offense punishable under this code, except for conduct that constitutes an offense described in article 120 (a), 120 (b), 120b (a), or 120b (b) of the federal "Uniform Code of Military Justice", 10 U.S.C. sec. 920 (a) and (b) and 10 U.S.C. sec. 920b (a) and (b).

(2) A special court-martial has the same powers of punishment as a general court-martial, including the authority to order a bad conduct discharge; except that:

(a) (I) A special court-martial that does not consist of a military judge alone, as described in section 28-3.1-201 (2)(b)(I), shall not impose confinement for more than one hundred eighty days and shall not order a dismissal or dishonorable discharge; and

(II) A special court-martial that consists of a military judge alone pursuant to section 28-3.1-201 (2)(b)(II) shall not impose confinement for more than ninety days and shall not order a dismissal or dishonorable discharge; and

(b) The fine or forfeiture of pay and allowances imposed by a special court-martial must not be more than the maximum pay and allowances received for six unit training assemblies or six days of annual training, whichever is applicable according to duty status.

(3) Notwithstanding section 16-10-101, a special court-martial consisting of a judge alone has the authority to try cases and impose punishments as set forth in this section.

Source: L. 83: Entire article added, p. 1169, § 1, effective June 10. **L. 2018:** Entire section amended, (SB 18-135), ch. 95, p. 745, § 8, effective April 2. **L. 2025:** Entire section amended, (SB 25-279), ch. 411, p. 2336, § 7, effective September 1.

28-3.1-205. Jurisdiction of summary courts-martial.

(1) (a) Summary courts-martial have jurisdiction to try a person subject to this code, except commissioned officers, warrant officers, cadets, candidates, and a person who objects to trial by summary court-martial as described in subsection (1)(b) of this section, for any offense made punishable under this code, except for conduct that constitutes an offense described in article 120 (a), 120 (b), 120b (a), or 120b (b) of the federal "Uniform Code of Military Justice", 10 U.S.C. sec. 920 (a) and (b) and 10 U.S.C. sec. 920b (a) and (b).

(b) An accused person may object to trial by a summary court-martial. If an accused person objects, a summary court-martial shall not try the person and the convening authority, or officer to whom the case is referred by the convening authority, shall order the accused tried by a general court-martial or special court-martial, as appropriate.

(2) and (3) (Deleted by amendment, L. 2018.)

(4) A summary court-martial may adjudge any of the following punishments:

(a) Confinement for not more than thirty days;

(b) A fine of any amount up to the maximum pay received for four unit training assemblies or four days of annual training, whichever is applicable according to duty status;

(c) Forfeiture of pay and allowances of any amount up to the maximum pay received for four unit training assemblies or four days of annual training, whichever is applicable according to duty status;

(d) Reduction of an enlisted person to any inferior grade; or

(e) Any combination of these punishments.

Source: L. 83: Entire article added, p. 1170, § 1, effective June 10. **L. 2002:** (2) and (3) amended, p. 606, § 69, effective May 24. **L. 2018:** Entire section amended, (SB 18-135), ch. 95, p. 745, § 9, effective April 2. **L. 2025:** (1) amended, (SB 25-279), ch. 411, p. 2337, § 8, effective September 1.

28-3.1-206. Who may convene general courts-martial.

General courts-martial may be convened by the governor; the adjutant general for the Colorado National Guard; any general officer in the position of the assistant adjutant general for the Colorado Army National Guard; the assistant adjutant general for the Colorado Air National Guard; the assistant adjutant general for the space, cyber, and missile defense for the Colorado National Guard; the land component commander for the Colorado Army National Guard; or the wing commander for the Colorado Air National Guard.

Source: L. 83: Entire article added, p. 1170, § 1, effective June 10. **L. 91:** Entire section amended, p. 1377, § 3, effective April 1. **L. 2018:** Entire section amended, (SB 18-135), ch. 95, p. 746, § 10, effective April 2.

28-3.1-207. Who may convene special courts-martial.

The commanding officer of a garrison, fort, post, camp, air base, or other place where members of the military forces are on duty or of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or any group of detached units placed under a command for this purpose may convene special courts-martial. In the Colorado Army National Guard, special courts-martial convening authorities include any officer with the grade of O-6 or rank of colonel serving as the commander of a major subordinate command. In the Colorado Air National Guard, special courts-martial convening authorities include group commanders. Special courts-martial may also be convened by superior authority. When any such commanding officer is an accuser, the court shall be convened by superior authority.

Source: L. 83: Entire article added, p. 1170, § 1, effective June 10. **L. 91:** Entire section amended, p. 1378, § 4, effective April 1. **L. 2018:** Entire section amended, (SB 18-135), ch. 95, p. 746, § 11, effective April 2.

28-3.1-208. Who may convene summary courts-martial.

(1) The commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the military forces are on duty or of a division, brigade, regiment, wing, group, battalion, squadron, company, or other detachment may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(2) When only one commissioned officer is present with a command or detachment, he or she shall be the summary court-martial of that command or detachment and shall hear and

determine all summary courts-martial cases brought before him or her. Summary courts-martial may, however, be convened in any case by superior authority.

Source: L. 83: Entire article added, p. 1170, § 1, effective June 10. **L. 2002:** (2) amended, p. 606, § 70, effective May 24.

28-3.1-209. Who may serve on courts-martial.

(1) Any commissioned officer off or on duty with the military forces is eligible to serve on all courts-martial for the trial of any person subject to this code.

(2) Any warrant officer off or on duty with the military forces is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer.

(3) (a) Any enlisted member of the military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member, but he or she shall serve as a member of a court only if, before convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such request, the accused shall not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained because of physical conditions or military exigencies. If enlisted members cannot be obtained, the court may be assembled and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why enlisted members could not be obtained.

(b) As used in this section, "unit" means any regularly organized body of the military forces not larger than a company, a squadron, or a body corresponding to one of them.

(4) (a) No person subject to this code may be tried by a court-martial of which any member is junior to him or her in rank or grade, unless it cannot be avoided and then only by order of the governor.

(b) When convening a court-martial, the convening authority shall detail as members thereof those persons as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when he or she is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member in good standing of the bar of this state and of

appropriate rank and grade, the convening authority may appoint him or her as president of a general or special court-martial.

Source: L. 83: Entire article added, p. 1170, § 1, effective June 10. **L. 2002:** (3)(a) and (4) amended, p. 607, § 71, effective May 24. **L. 2018:** (4)(b) amended, (SB 18-135), ch. 95, p. 746, § 12, effective April 2.

28-3.1-210. Military judge of a general or special court-martial.

(1) (a) The authority convening a general or special court-martial shall request the state judge advocate general to detail as military judge thereof a commissioned officer who is a member in good standing of the bar of this state. No person is eligible to act as military judge in a case if he or she is the accuser or witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(b) A military judge may be detailed to a court-martial irrespective of military branch when permitted by the state judge advocate.

(2) The military judge may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may he or she vote with the members of the court.

Source: L. 83: Entire article added, p. 1171, § 1, effective June 10. **L. 2002:** Entire section amended, p. 607, § 72, effective May 24. **L. 2018:** (1) amended, (SB 18-135), ch. 95, p. 746, § 13, effective April 2.

28-3.1-211. Detail of trial and defense counsel.

(1) For each general or special court-martial, the authority convening the court shall request the state judge advocate general to detail trial counsel and defense counsel and assistants as he or she considers appropriate. No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(2) Trial counsel and defense counsel for a general or special court-martial must be members in good standing of the bar of this state and judge advocates appointed pursuant to section 28-3.1-106 (2).

Source: L. 83: Entire article added, p. 1171, § 1, effective June 10. **L. 2002:** (1) amended, p. 608, § 73, effective May 24. **L. 2018:** (2) amended, (SB 18-135), ch. 95, p. 747, § 14, effective April 2.

28-3.1-212. Detail or employment of reporters and interpreters.

The convening authority of a general court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of testimony taken before that court or, in the alternative, may utilize sound recording equipment. The convening authority of a special court-martial may detail or employ qualified court reporters who shall record the proceedings of testimony taken before that court. The convening authority of a military court may appoint interpreters who shall interpret for the court.

Source: L. 83: Entire article added, p. 1171, § 1, effective June 10.

28-3.1-213. Absent and additional members.

(1) No member of a general or special court-martial may be absent or excused after the accused has been arraigned except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(2) Whenever a general court-martial is reduced below five members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the military judge, the accused, and counsel.

(3) Except for a lawfully convened special court-martial that consists of a military judge alone, as described in section 28-3.1-201 (2)(b)(II), whenever a special court-martial is reduced to fewer than three members, the trial must not proceed unless the convening authority appoints new members sufficient in number to provide at least three members. When the new members have been sworn, the trial may proceed as if no evidence was previously introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

Source: L. 83: Entire article added, p. 1172, § 1, effective June 10. **L. 2025:** (3) amended, (SB 25-279), ch. 411, p. 2337, § 9, effective September 1.

28-3.1-214. Charges and specifications. (Repealed)

Source: L. 83: Entire article added, p. 1172, § 1, effective June 10. **L. 2002:** (1)(b) and (2) amended, p. 608, § 74, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-215. Compulsory self-incrimination prohibited. (Repealed)

Source: L. 83: Entire article added, p. 1172, § 1, effective June 10. **L. 2002:** (1), (2), and (4) amended, p. 608, § 75, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-216. Investigation. (Repealed)

Source: L. 83: Entire article added, p. 1173, § 1, effective June 10. **L. 86:** (1) amended, p. 1015, § 3, effective July 1. **L. 2002:** (2) and (3) amended, p. 608, § 76, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-217. Forwarding of charges. (Repealed)

Source: L. 83: Entire article added, p. 1173, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-218. Advice of state judge advocate and reference for trial. (Repealed)

Source: L. 83: Entire article added, p. 1174, § 1, effective June 10. **L. 2002:** (1) amended, p. 609, § 77, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-219. Service of charges. (Repealed)

Source: L. 83: Entire article added, p. 1174, § 1, effective June 10. **L. 2002:** Entire section amended, p. 609, § 78, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

PART 3

TRIAL PROCEDURE

28-3.1-301. General procedures.

The governor may prescribe, by regulation, pretrial, trial, and post-trial procedures, including modes of proof, in cases before military courts and other military tribunals. The procedures, so far as practicable, must be the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of Colorado and in the trial of courts-martial of the United States, but the procedures must not be contrary to or inconsistent with this code.

Source: L. 83: Entire article added, p. 1174, § 1, effective June 10. **L. 2002:** (3) amended, p. 362, § 24, effective July 1. **L. 2025:** Entire section amended, (SB 25-279), ch. 411, p. 2338, § 10, effective September 1.

28-3.1-302. Unlawfully influencing action of court. (Repealed)

Source: L. 83: Entire article added, p. 1174, § 1, effective June 10. **L. 2002:** (1) and (2)(a) amended, p. 609, § 79, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-303. Duties of trial counsel and defense counsel.

(1) The trial counsel of a general or special court-martial shall prosecute in the name of the state and shall, under the direction of the court, prepare the record of proceedings.

(2) The accused has the right to be represented in his or her defense before a general or special court-martial by civilian counsel if provided by him or her, or by military counsel of his or her own selection if reasonably available, or by the defense counsel detailed under section 28-

3.1-211. If the accused has counsel of his or her own selection, the defense counsel and assistant defense counsel, if any, who were detailed shall, if the accused so desires, act as his or her associate counsel; otherwise they shall be excused by the military judge.

(3) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of the matters he or she feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he or she considers appropriate.

(4) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is qualified to be a trial counsel as required by section 28-3.1-211, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(5) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he or she is qualified to be the defense counsel as required by section 28-3.1-211, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Source: L. 83: Entire article added, p. 1175, § 1, effective June 10. **L. 2002:** (2) to (5) amended, p. 610, § 80, effective May 24.

28-3.1-304. Sessions. (Repealed)

Source: L. 83: Entire article added, p. 1175, § 1, effective June 10. **L. 87:** (3) added, p. 1176, § 1, effective April 16. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-305. Continuances. (Repealed)

Source: L. 83: Entire article added, p. 1176, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-306. Challenges.

(1) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) Both the accused and the trial counsel are entitled to one preemptory challenge, but the military judge may not be challenged except for cause.

(3) If the exercise of a peremptory challenge or challenge for cause reduces the number of members to fewer than the required number of members for the court-martial as described in section 28-1.3-213, the convening authority shall appoint new members to the court-martial pursuant to section 28-1.3-213.

Source: L. 83: Entire article added, p. 1176, § 1, effective June 10. **L. 2025:** (3) added, (SB 25-279), ch. 411, p. 2338, § 11, effective September 1.

28-3.1-307. Oaths. (Repealed)

Source: L. 83: Entire article added, p. 1176, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-308. Statute of limitations.

The statute of limitations to bring charges for an offense pursuant to this article 3.1 is the same as in the federal "Uniform Code of Military Justice".

Source: L. 83: Entire article added, p. 1176, § 1, effective June 10. **L. 2002:** (3) amended, p. 610, § 81, effective May 24. **L. 2025:** Entire section R&RE, (SB 25-279), ch. 411, p. 2338, § 12, effective September 1.

28-3.1-309. Former jeopardy. (Repealed)

Source: L. 83: Entire article added, p. 1177, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-310. Pleas of the accused. (Repealed)

Source: L. 83: Entire article added, p. 1177, § 1, effective June 10. **L. 2002:** (1) amended, p. 611, § 82, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-311. Opportunity to obtain witnesses and other evidence.

(1) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with regulations the governor prescribes.

(2) The military judge of a court-martial or a summary court-martial may:

(a) Issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(b) Issue subpoenas duces tecum and other subpoenas;

(c) Enforce the attendance of witnesses and the production of books and papers.

Source: L. 83: Entire article added, p. 1177, § 1, effective June 10.

28-3.1-312. Refusal to appear or testify.

(1) Any person not subject to this code who has been subpoenaed to appear as a witness or to produce books and records before a military court or before a military or civil officer designated to take a deposition to be read in evidence before such a court and who willfully neglects or refuses to appear, refuses to qualify as a witness, refuses to testify, or refuses to produce any evidence commits a petty offense and shall be punished as provided in section 18-1.3-503.

(2) Upon the certification of the facts in subsection (1) of this section by the military court or tribunal to the district attorney of the county where the offense occurred, the district attorney shall prosecute the accused in any court of record, and jurisdiction is hereby conferred upon such courts for this purpose.

Source: L. 83: Entire article added, p. 1177, § 1, effective June 10. **L. 2002:** (1) amended, p. 1541, § 283, effective October 1. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3245, § 493, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

28-3.1-313. Contempt.

A military court may punish for contempt any person who willfully and unlawfully refuses to be sworn as a witness, or who refuses to answer any legal or proper question, or who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by a riot or disorder. The punishment shall not exceed confinement for thirty days or a fine of one hundred dollars, or both.

Source: L. 83: Entire article added, p. 1178, § 1, effective June 10.

28-3.1-314. Depositions. (Repealed)

Source: L. 83: Entire article added, p. 1178, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-315. Admissibility of records of courts of inquiry. (Repealed)

Source: L. 83: Entire article added, p. 1178, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-316. Voting and rulings. (Repealed)

Source: L. 83: Entire article added, p. 1178, § 1, effective June 10. **L. 2002:** (2), (3)(a), and (3)(b) amended, p. 611, § 83, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-317. Number of votes required. (Repealed)

Source: L. 83: Entire article added, p. 1179, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-318. Court to announce action. (Repealed)

Source: L. 83: Entire article added, p. 1179, § 1, effective June 10. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-319. Record of trial. (Repealed)

Source: L. 83: Entire article added, p. 1179, § 1, effective June 10. **L. 2002:** Entire section amended, p. 611, § 84, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

PART 4

SENTENCES

28-3.1-401. Cruel and unusual punishments prohibited.

Cruel and unusual punishment may not be adjudged by any court-martial or inflicted upon any person subject to this code.

Source: L. 83: Entire article added, p. 1180, § 1, effective June 10.

28-3.1-402. Maximum limits.

The punishment which a court-martial may direct for an offense shall not exceed limits prescribed by this code.

Source: L. 83: Entire article added, p. 1180, § 1, effective June 10.

28-3.1-402.5. Classification of offenses.

A conviction by general court-martial of any military offense for which an accused received a sentence greater than one year of confinement or a conviction by a general court-martial of any offense that, at the time the offense was committed, carries a maximum term of confinement of three years or greater as set forth under 10 U.S.C. sec. 877 to 10 U.S.C. sec. 934, as amended, or pursuant to an executive order, is a felony offense. Except for convictions by a summary court-martial, all other military offenses are misdemeanors. Any conviction by a special court-martial is a misdemeanor. Any conviction by a summary court-martial is not a criminal conviction.

Source: L. 2018: Entire section added, (SB 18-135), ch. 95, p. 747, § 15, effective April 2.

28-3.1-403. Effective date of sentences.

(1) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances, in addition to confinement not suspended, the forfeiture may apply to pay and allowances becoming due before or after the date the sentence is approved by the convening authority.

(2) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the terms of confinement.

(3) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in his or her sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his or her jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(4) All other sentences of court-martial are effective on the date ordered executed. In no case may a sentence be executed until final action is taken on review.

(5) In the militia or state military forces not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor.

(6) Notwithstanding subsection (3) of this section, unless waived by the accused, an officer exercising summary court-martial jurisdiction shall defer service of a sentence to confinement pursuant to section 28-3.1-205 (4)(a), pending the conclusion of any appeal following review and approval pursuant to section 28-3.1-420.

Source: L. 83: Entire article added, p. 1180, § 1, effective June 10. **L. 2002:** (3) amended, p. 611, § 85, effective May 24. **L. 2018:** (6) added, (SB 18-135), ch. 95, p. 747, § 16, effective April 2.

28-3.1-404. Execution of confinement.

(1) A sentence of confinement adjudged by a military court may be carried into execution by confinement in any place of confinement under the control of any of the forces of the state military forces or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state.

(2) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(3) The keepers, sheriffs, officers, and wardens of city or county jails and of all other jails, penitentiaries, or prisons designated by the convening authority shall receive persons ordered into confinement before trial or persons committed to confinement by a military court and shall confine them according to law.

Source: L. 83: Entire article added, p. 1180, § 1, effective June 10.

28-3.1-405. Commitment under sentence of confinement.

When a sentence of confinement is imposed to be served other than in a guardhouse, the convening authority shall issue a writ in the following or similar form:

STATE OF)
_____

) ss.

COUNTY)
OF_____

To the Sheriff of _____ County, _____, State of Colorado.

WHEREAS, _____ of _____ in the _____ County of _____, a member of the Colorado National Guard, was on the _____ day of _____, 20_____, tried by court-martial and found guilty of _____ in violation of the Colorado Military Code and was sentenced to serve _____ days imprisonment; and

WHEREAS, as such sentence was approved and ordered executed by the convening authority, on the _____ day of _____, 20_____;

THEREFORE, you were commanded to take the body of the said _____ and commit him or her to the keeper of the jail, who is hereby commanded to receive the body of the said _____ and keep him or her safely for the term of _____ days, after which he or she shall be released.

Fail not, but do as herein commanded and make a return within sixty (60) days from this date.

Dated at _____, in the _____ County of _____ this _____ day of _____, 20_____.

Source: L. 83: Entire article added, p. 1181, § 1, effective June 10. **L. 2002:** Entire section amended, p. 612, § 86, effective May 24.

28-3.1-406. Collection of fines.

(1) All fines imposed as a sentence of a court-martial shall be paid at the time of approval of the sentence by the convening authority.

(2) The commitment to the county jail for nonpayment of fines shall be in the following or similar form:

STATE OF)
_____

) ss.

COUNTY
OF_____)

To the Sheriff of _____ County _____, State of Colorado.

WHEREAS, _____ of _____ in the _____ County of _____, a member of the Colorado National Guard, was on the _____ day of _____, 20_____, tried by court-martial and found guilty of _____ in violation of the Colorado Military Code and was sentenced to pay a fine of _____ Dollars; and

WHEREAS, such fine has not been paid;

NOW, THEREFORE, by authority of the State of Colorado, you are hereby commanded to take the body of the said _____ and commit it to the keeper of the jail in the County of _____, who is hereby commanded to receive the body of the said _____ and keep him or her safely until he or she pays the sum above mentioned, or shall have served one (1) day for each dollar of said fine, after which time he or she shall be released.

Fail not, but make service and return within sixty (60) days from this date.

Dated at _____, in the _____ County of _____ this _____ day of _____, 20_____.

Source: L. 83: Entire article added, p. 1181, § 1, effective June 10. **L. 2002:** (2) amended, p. 612, § 87, effective May 24.

28-3.1-407. Initial action on the record by convening authority - staff judge advocate review.

(1) After a trial by court-martial, the military judge who presided over the court-martial shall forward the record of the court-martial to the convening authority. Upon receipt of the record of the court-martial, the convening authority shall forward the record to the staff judge advocate designated by the state judge advocate general.

(2) The staff judge advocate shall review the record and submit a written opinion to the convening authority. The staff judge advocate's opinion must include:

(a) Conclusions about whether:

(I) The court-martial had jurisdiction over the accused;

(II) The charge and specification stated an offense; and

(III) The sentence was within the limits prescribed as a matter of law;

(b) If the accused makes allegations in writing, a response to each allegation of error made in writing by the accused; and

(c) In an opinion about the findings of a summary court-martial, advice to the convening authority on the sufficiency of the evidence as to each finding made by the summary court-martial.

(3) A convening authority shall not act on the findings of or sentence imposed by a court-martial before the staff judge advocate review.

(4) (a) After receiving the staff judge advocate's written opinion described in subsection (2) of this section, the convening authority of a general court-martial or a special court-martial:

(I) Shall not act on the findings of the court-martial; and

(II) May act as described in subsection (4)(b) of this section on the sentence of the court-martial if:

(A) The total period of a sentence to confinement imposed for all offenses involved, running consecutively, is less than one hundred eighty days; and

(B) The court-martial did not impose a sentence of dismissal or dishonorable discharge.

(b) A convening authority acting on a sentence imposed by a court-martial pursuant to subsection (4)(a)(II) of this section may:

(I) Approve the court-martial's sentence;

(II) Disapprove, commute, or suspend the court-martial's sentence, in whole or in part; or

(III) Disapprove the court-martial's sentence and order a rehearing on the sentence.

(c) After appropriate staff judge advocate review, the convening authority of a summary court-martial may:

(I) Approve the court-martial's findings and sentence;

(II) Dismiss any charge or specification by setting aside the finding of guilty;

(III) Change the court-martial's finding of guilty of the charge or specification to a finding of guilty of a lesser included offense;

(IV) Disapprove the court-martial's findings and sentence and dismiss the charge and specification;

(V) Disapprove the court-martial's findings and sentence and order a rehearing on the findings and sentence;

(VI) Disapprove, commute, or suspend the court-martial's sentence, in whole or in part; or

(VII) Disapprove the court-martial's sentence and order a rehearing as to the sentence.

(5) If, pursuant to this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority must include a written explanation of the reasons for the action.

(6) The convening authority shall forward its final decision to the military judge who presided over the court-martial and provide copies of the decision to the accused and to any victim of the offense. The military judge shall incorporate the convening authority's final decision into the record.

Source: L. 83: Entire article added, p. 1182, § 1, effective June 10. **L. 2002:** Entire section amended, p. 613, § 88, effective May 24. **L. 2025:** Entire section amended, (SB 25-279), ch. 411, p. 2338, § 13, effective September 1.

28-3.1-408. Reconsideration and revision.

(1) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(2) (a) Where there is an apparent error or omission in the record, or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action.

(b) In no case, however, may the record be returned:

(I) For reconsideration of a finding of not guilty or a ruling which amounts to a finding of not guilty; or

(II) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of the code; or

(III) For increasing the severity of the sentence, unless the sentence prescribed for the offense is mandatory.

Source: L. 83: Entire article added, p. 1182, § 1, effective June 10.

28-3.1-409. Rehearings.

(1) If the convening authority disapproves the findings and sentence of a court-martial, he or she may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case, he or she shall state the reasons for disapproval. If he or she disapproves the findings and sentence and does not order a rehearing, he or she shall dismiss the charges.

(2) Each rehearing shall take place before a court-martial whose composition shall not include any member or military judge of the court-martial which first heard the case. Upon a rehearing, the accused may not be tried for any offense of which he or she was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed unless the sentence is based upon a finding of guilty of an offense considered upon the merits in the original proceedings or unless the sentence prescribed for the offense is mandatory.

Source: L. 83: Entire article added, p. 1182, § 1, effective June 10. **L. 2002:** Entire section amended, p. 613, § 89, effective May 24.

28-3.1-410. Approval by the convening authority.

In acting on the findings and sentence of a court-martial, the convening authority may approve only those findings and the sentence or part or amount of the sentence which he or she finds correct in law and fact. Unless he or she indicates otherwise, approval of the sentence is approval of the findings and sentence.

Source: L. 83: Entire article added, p. 1182, § 1, effective June 10. **L. 2002:** Entire section amended, p. 613, § 90, effective May 24.

28-3.1-411. Review of records - disposition.

(1) If the convening authority is the governor, he or she shall refer the record of courts-martial to the state judge advocate general who shall submit his or her written opinion to the governor. If the final action of the court has resulted in acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. After consideration of the opinion, the governor's action on review of any record is final.

(2) (a) Except as provided in subsection (1) of this section, the convening authority shall refer the record of a general court-martial to the staff judge advocate designated by the state judge advocate general who shall submit his or her written opinion to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. When the convening authority has taken final action, he or she shall forward the entire record, including his or her action thereon and the opinion of the staff judge advocate, to the state judge advocate general for review.

(b) In a case reviewable by the state judge advocate general under this section, the staff judge advocate may act only with respect to the findings and sentence as approved by the convening authority. He or she may affirm only the findings of guilty and the sentence or part or amount of the sentence which he or she finds correct in law and fact and determined on the basis of the entire record. In considering the record, he or she may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the staff judge advocate sets aside the findings and sentence, he or she may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he or she sets aside the findings and sentence and does not order a rehearing, he or she shall order that the charges be dismissed.

(c) The state judge advocate general shall instruct the convening authority to act in accordance with his or her decision on the review. If he or she has ordered a rehearing, but the convening authority finds a rehearing impracticable, he or she may dismiss the charges.

(3) Except as provided in subsection (1) of this section, the convening authority of any summary or special court-martial, after taking final action on review, shall forward the entire record, including his or her action thereon, to the staff judge advocate designated by the state judge advocate general. With respect to such record, the staff judge advocate shall have the same duties and powers as provided for the state judge advocate general in paragraphs (b) and (c) of subsection (2) of this section.

(4) The state judge advocate general may order one or more boards of review, each composed of not less than three commissioned officers of the state military forces, or retired members of the military forces, or members of the United States Air Forces or United States Army reserve, each of whom must be a member of the bar of this state. Each board of review shall review the record of any trial by special court-martial referred to it by the state judge advocate general. Boards of review shall have the same authority on review as the state judge advocate general has under subsection (2) of this section.

Source: L. 83: Entire article added, p. 1183, § 1, effective June 10. **L. 2002:** (1), (2), and (3) amended, p. 614, § 91, effective May 24.

28-3.1-412. Review counsel.

(1) Upon the final review of a sentence of any court-martial, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate general.

(2) Upon the request of an accused, the state judge advocate general shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in section 28-3.1-211 if available, to represent the accused before the reviewing authority, before the staff judge advocate, and before the state judge advocate general in the review of cases specified in subsection (1) of this section.

(3) The accused may be represented by civilian counsel, provided at his or her expense, before the reviewing authority, before the staff judge advocate, and before the state judge advocate general.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10. **L. 2002:** (3) amended, p. 615, § 92, effective May 24.

28-3.1-413. Review by governor.

Notwithstanding review procedures provided in this code, in any case where no right to review by the governor exists, the accused may, within thirty days after final action is taken by any reviewing authority, petition the governor to review such final action. The governor may take action as he or she deems appropriate. Failure of the governor to act within thirty days shall constitute a denial.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10. **L. 2002:** Entire section amended, p. 615, § 93, effective May 24.

28-3.1-414. Error of law - lesser included offense.

(1) A finding or sentence of a court-martial shall not be held incorrect on the ground of an error of law, unless the error materially prejudices the substantial rights of the accused.

(2) Any reviewing authority with the power to affirm a finding of guilty may affirm so much of the findings as includes a lesser included offense.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10.

28-3.1-415. Vacation of suspension of sentence.

(1) Before the vacation of the suspension of any court-martial sentence, the officer having court-martial jurisdiction over a probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel, if he or she so desires.

(2) The record of the hearing and the recommendation of the officer having court-martial jurisdiction shall be sent for action to the state judge advocate in cases involving a general court-martial sentence. If the state judge advocate vacates the suspension, any unexecuted part of the sentence shall be executed.

(3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10. **L. 2002:** (1) amended, p. 615, § 94, effective May 24.

28-3.1-416. Petition for a new trial.

At any time within two years after approval by the convening authority of a court-martial sentence, the accused may petition the governor for a new trial on grounds of newly discovered evidence or fraud on the court-martial.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10.

28-3.1-417. Remission and suspension.

(1) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(2) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Source: L. 83: Entire article added, p. 1184, § 1, effective June 10.

28-3.1-418. Restoration.

(1) Under regulations prescribed by the governor, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, may be restored, unless a new trial or rehearing is ordered and the executed part is included in a sentence imposed upon a new trial or rehearing.

(2) If a previously executed sentence of dishonorable discharge or other punitive discharge is not imposed on a new trial, the governor shall substitute a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his or her enlistment.

(3) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute a form of discharge authorized for administrative issue, and a commissioned officer dismissed by that sentence may be reappointed only by the governor to the commissioned grade and rank as that former officer would have attained had he or she not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and reappointment shall be considered as service for all state purposes.

Source: L. 83: Entire article added, p. 1185, § 1, effective June 10. **L. 2002:** (2) and (3) amended, p. 615, § 95, effective May 24.

28-3.1-419. Finality of proceedings, findings, and sentences.

The proceedings, findings, and sentences of courts-martial as reviewed and approved as required by this code and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval as required by this code are final. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided by section 28-3.1-416 or action taken on appeal as provided by section 28-3.1-420.

Source: L. 83: Entire article added, p. 1185, § 1, effective June 10. **L. 87:** Entire section amended, p. 1176, § 2, effective April 16.

28-3.1-420. Appeal following review and approval.

(1) The accused, within thirty-five days after the date the final reviewing authority takes action, may take an appeal to the supreme court of the state of Colorado pursuant to the Colorado appellate rules.

(2) When the accused petitions the governor pursuant to section 28-3.1-413 to review the final action of the reviewing authority, the time for filing notice of appeal is extended until thirty-five days after the governor announces his or her action or the petition is denied due to the governor's failure to act. No action or failure to act by the governor shall form the basis for appeal, nor shall the supreme court order review by the governor.

Source: L. 87: Entire section added, p. 1177, § 3, effective April 16. **L. 2002:** (2) amended, p. 615, § 96, effective May 24. **L. 2013:** Entire section amended, (HB 13-1126), ch. 58, p.193, § 6, effective July 1.

28-3.1-421. Appeal by the state.

(1) The state shall not appeal a finding of not guilty with respect to a charge or specification. In a trial by court-martial in which a punitive discharge may be adjudged, the state may appeal the following:

(a) An order or ruling of the military judge that terminates the proceedings with respect to a charge or specification;

(b) An order or ruling that excludes evidence that is substantial proof of a fact material in the proceeding;

(c) An order or ruling that directs the disclosure of classified information;

(d) An order or ruling that imposes sanctions for nondisclosure of classified information;

(e) A refusal of the military judge to issue a protective order sought by the state to prevent the disclosure of classified information; or

(f) A refusal by the military judge to enforce an order described in subsection (1)(e) of this section that has previously been issued by the appropriate authority.

(2) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within seventy-two hours of the order or ruling. Such notice must include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one that excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(3) An appeal under this article 3.1 must be diligently prosecuted as provided by law.

(4) An appeal under this article 3.1 must be forwarded to the court prescribed in this code. In ruling on an appeal under this article 3.1, that court may act only with respect to matters of law.

(5) Any period of delay resulting from an appeal under this article 3.1 must be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

Source: L. 2018: Entire section added, (SB 18-135), ch. 95, p. 747, § 17, effective April 2. **L. 2025:** IP(1) amended, (SB 25-279), ch. 411, p. 2340, § 14, effective September 1.

PART 5

PUNITIVE ARTICLES

Editor's note: This part 5 was added in 1983. It was repealed and reenacted in 2025, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 5 prior to 2025, consult the 2024 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

28-3.1-501. Punitive articles of the federal "Uniform Code of Military Justice" incorporated.

Pursuant to section 28-3.1-102.5, the punitive articles, 10 U.S.C. secs. 877 to 933, and the general article, 10 U.S.C. sec. 934, of the federal "Uniform Code of Military Justice" are incorporated into the "Colorado Code of Military Justice", this article 3.1; except that the maximum punishments and classifications of offenses set forth in sections 28-3.1-402 and 28-3.1-402.5 apply to convictions pursuant to this article 3.1.

Source: L. 2025: Entire part R&RE, (SB 25-279), ch. 411, p. 2340, § 15, effective September 1.

PART 6

MISCELLANEOUS PROVISIONS

28-3.1-601. Courts of inquiry.

(1) Courts of inquiry to investigate any matter may be convened by the governor.

(2) A court of inquiry shall consist of three or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

(3) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the department who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, the counsel, the reporter, and the interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(6) Witnesses may be summoned to appear and testify and may be examined before courts of inquiry in the same manner as provided for courts-martial.

(7) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member of the court in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member of the court in lieu of the counsel.

Source: L. 83: Entire article added, p. 1193, § 1, effective June 10. **L. 2002:** (3) amended, p. 362, § 24, effective July 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (3), see section 1 of chapter 121, Session Laws of Colorado 2002.

28-3.1-602. Authority to administer oaths.

(1) The following members of the military forces may administer oaths for the purposes of military justice, and affidavits may be taken for those purposes before such members or before persons having the general powers of a notary public:

(a) The state judge advocate general and all assistant state judge advocates;

(b) All summary courts-martial members;

(c) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

(d) All commanding officers;

(e) The president, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial;

(f) The president and counsel for the court of any court of inquiry;

(g) All officers designated to take a deposition;

(h) All persons detailed to conduct an investigation; and

(i) All other persons designated by regulations of the governor.

(2) Officers of the state military forces may not be authorized to administer oaths as provided in this section unless they are on duty in or with those forces under orders of the governor as prescribed in this code.

(3) The signature without seal of any person designated in this section, together with the title of his or her office, is prima facie evidence of his or her authority.

Source: L. 83: Entire article added, p. 1193, § 1, effective June 10. **L. 2002:** (3) amended, p. 620, § 120, effective May 24.

28-3.1-603. Sections to be explained.

Sections of this code shall be carefully explained to every person at the time of his or her enlistment, appointment, transfer, or induction into or at the time of his or her order to duty in or with any of the state military forces or within ninety days thereafter. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the state military forces, upon his or her request, for his or her personal examination. The requirements of this section are binding on all persons administering this code, but failure to follow them shall not divest a military court of jurisdiction.

Source: L. 83: Entire article added, p. 1194, § 1, effective June 10. **L. 86:** Entire section amended, p. 1015, § 5, effective May 3. **L. 2002:** Entire section amended, p. 620, § 121, effective May 24.

28-3.1-604. Complaints of wrongs.

Any member of the state military forces who believes himself or herself wronged by a commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of, and shall, as soon as possible, send to the adjutant general a true statement of that complaint, with the proceedings had thereon.

Source: L. 83: Entire article added, p. 1194, § 1, effective June 10. **L. 96:** Entire section amended, p. 86, § 1, effective August 7. **L. 2018:** Entire section R&RE, (SB 18-135), ch. 95, p. 751, § 32, effective April 2.

28-3.1-605. Redress of injuries to property. (Repealed)

Source: L. 83: Entire article added, p. 1194, § 1, effective June 10. **L. 2002:** (1) and (3) amended, p. 621, § 122, effective May 24. **L. 2025:** Entire section repealed, (SB 25-279), ch. 411, p. 2341, § 17, effective September 1.

28-3.1-606. Presumption of jurisdiction.

The jurisdiction of the military courts and boards established by this code shall be presumed, and the burden of proof rests on any person seeking to invalidate the jurisdiction of those courts or boards of jurisdiction in any action or proceeding.

Source: L. 83: Entire article added, p. 1195, § 1, effective June 10.

28-3.1-606.5. Concurrent jurisdiction with civil authorities.

If concurrent civilian and military jurisdiction exists to prosecute the same offense allegedly committed by a member of the state military forces, and a district attorney with jurisdiction to prosecute the offense has filed felony charges against the member pursuant to state law, the state military forces shall defer prosecution of the offense otherwise subject to this code to the district attorney. If a district attorney declines to pursue felony charges or dismisses charges without trial, a court-martial may be convened against the member in accordance with this code.

Source: L. 2025: Entire section added, (SB 25-279), ch. 411, p. 2340, § 16, effective September 1.

28-3.1-607. Delegation of authority by the governor.

The governor may delegate any authority vested in him or her under this code.

Source: L. 83: Entire article added, p. 1195, § 1, effective June 10. **L. 2002:** Entire section amended, p. 621, § 123, effective May 24.

ARTICLE 4

State Defense Force

28-4-101. Short title.
28-4-102. Definitions.
28-4-103. Supplemental military force.
28-4-103.5. Persons subject to military duty - state defense force.
28-4-104. State defense force - composition.
28-4-105. Organization - rules and regulations.
28-4-106. Pay - members - employees of state.
28-4-107. Equipment - buildings.
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28-4-109. Forces of other states - privilege.
28-4-110. Federal service.
28-4-111. Civil groups not enlisted as units.
28-4-112. Citizenship a qualification.
28-4-113. Oath of officers.
28-4-114. Enlistment period - oath.
28-4-115. Articles of war.

28-4-101. Short title.

This article shall be known and may be cited as the "State Defense Force Act".

Source: L. 43: p. 444, § 19. **CSA:** C. 111, § 138. **CRS 53:** § 94-7-15. **C.R.S. 1963:** § 94-2-15. **L. 86:** Entire section amended, p. 1016, § 10, effective May 3.

28-4-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) and (2) (Deleted by amendment, L. 2002, p. 589, § 18, effective May 24, 2002.)

(3) "Saboteur" means a person who intentionally destroys, damages, moves, or interferes with any property with reasonable grounds to believe that the act will interfere with the preparation of the United States or any state for defense or for war or with the prosecution of war by the United States.

(4) "State defense force" means the organized military force of the state of Colorado other than the Army National Guard or Air National Guard and existing as a division of the department of military and veterans affairs pursuant to section 24-1-127 (3)(d), C.R.S.

(5) "State defense force active duty" means that duty performed by individuals pursuant to this article.

(6) "Terrorist" means a person who has engaged in, or is suspected of engaging in, acts of terrorism, as that term is defined in 18 U.S.C. sec. 3077 (1), as amended.

Source: L. 43: p. 439, § 1. **CSA:** C. 111, § 123. **CRS 53:** § 94-7-1. **C.R.S. 1963:** § 94-2-1. **L. 86:** (1) amended, p. 1016, § 11, effective May 3. **L. 2002:** (1) and (2) amended and (3) to (6) added, p. 589, § 18, effective May 24. **L. 2021:** (4) amended, (SB 21-266), ch. 423, p. 2803, § 27, effective July 2.

28-4-103. Supplemental military force.

The governor of the state of Colorado may establish, enlist, maintain, and train and regulate an organized military force within and for the state of Colorado constituting a part of the military establishment for the defense of the United States and the state of Colorado, in addition to and

supplemental to the existing organizations of the National Guard, to the full extent authorized by the laws of the United States and the constitution of the state of Colorado.

Source: L. 43: p. 439, § 2. **CSA:** C. 111, § 124. **CRS 53:** § 94-7-2. **C.R.S. 1963:** § 94-2-2.

Cross references: For the militia, see art. XVII, Colo. Const.

28-4-103.5. Persons subject to military duty - state defense force.

(1) Every able-bodied male citizen of Colorado and those who have declared their intention to become citizens of the United States residing therein between the ages of eighteen and sixty-four years, except persons exempt by law, are subject to military duty in the state defense force. However, the following persons or classes of persons are exempted from military service:

(a) Persons exempt by any statute of this state;

(b) The members of any regularly organized fire or police department of any city, county, city and county, or town if such members are on full-time duty with the fire or police departments or if such members are found by the governor to be necessary for the health, welfare, or protection of the community;

(c) Those permanently disqualified for military service because of physical disability and having in their possession a certificate of some licensed physician or advanced practice registered nurse or surgeon that describes the nature thereof;

(d) Justices, judges, and clerks of courts of record, clerks of municipal courts, county clerk and recorders, sheriffs, and ministers of the gospel;

(e) Practicing physicians, officers and assistants of hospitals, prisons, and jails whose services are declared by the governor to be necessary for the general health, welfare, or protection of the community;

(f) Persons determined to be mentally incompetent by a court of competent jurisdiction and persons convicted of a felony and not pardoned;

(g) All persons who because of religious beliefs claim exemption from military service, if the conscientious holding of such belief by such persons is established under such regulations as the governor prescribes. Such persons shall be exempted from military service in a combat capacity, but no person so exempted shall be exempt from military service in any capacity which the governor declares to be noncombatant.

Source: L. 2002: Entire section added with relocations, p. 590, § 19, effective May 24. **L. 2008:** (1)(c) amended, p. 135, § 27, effective January 1, 2009.

Editor's note: This section is similar to former § 28-3-102 as it existed prior to 2002.

28-4-104. State defense force - composition.

The governor is authorized to organize and maintain within this state such military forces as the governor deems necessary to defend this state. Such forces are known as the state defense force and are composed of such citizens of the state who volunteer or who are ordered by the governor and qualify for service therein. Such forces are additional to and distinct from the National Guard. The Colorado state defense force is maintained in numbers to be determined by the governor. If organized by the governor, the Colorado state defense force is a **type 2** entity, as defined in section 24-1-105. No officer or enlisted person of this force may be a member of the National Guard or other armed force of the United States. Such part of this force as ordered by the governor is uniformed. Any part or all of this force may be called to state defense force active duty at the pleasure of the governor. All costs and expenses of the state defense force are paid from the general fund by separate appropriation to the department of military and veterans affairs.

Source: L. 43: p. 439, § 3. **CSA:** C. 111, § 125. **CRS 53:** § 94-7-3. **C.R.S. 1963:** § 94-2-3. **L. 82:** Entire section amended, p. 451, § 1, effective March 5. **L. 86:** Entire section amended, p. 1017, § 12, effective May 3. **L. 2002:** Entire section amended, p. 591, § 20, effective May 24. **L. 2021:** Entire section amended, (SB 21-266), ch. 423, p. 2804, § 28, effective July 2. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3417, § 188, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

28-4-105. Organization - rules and regulations.

The governor is authorized to prescribe the strength, branch of service, and rules and regulations not inconsistent with the provisions of this article governing the enlistment age of members of the force and governing the organization, physical requirements, administration, equipment, maintenance, training, and discipline of such force. Such rules and regulations,

insofar as he or she deems practicable and desirable, shall conform to the existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder and shall prohibit the acceptance of gifts, donations, gratuities, or anything of value by any member of such force from any individual, firm, association, or corporation by reason of his or her membership; except that it is permissible for common carriers, such as airlines, railroads and bus lines, to carry members of such force without charge or at a reduced rate. The Colorado state defense force shall be commanded by the senior officer holding a state commission in the Colorado state defense force. He or she shall be designated by the adjutant general as the commanding officer of the Colorado state defense force. All the rights, powers, privileges, benefits, and emoluments created or existing by virtue of state laws, customs, or regulations heretofore had or enjoyed by the members of the Colorado National Guard shall be conferred upon and vested in the members of the Colorado state defense force. All the duties and responsibilities imposed upon and demanded of the members of the Colorado National Guard by the state laws, customs, or regulations are imposed upon and may be demanded of the members of the Colorado state defense force.

Source: L. 43: p. 440, § 4. **CSA:** C. 111, § 126. **CRS 53:** § 94-7-4. **C.R.S. 1963:** § 94-2-4. **L. 86:** Entire section amended, p. 1017, § 13, effective May 3. **L. 2002:** Entire section amended, p. 591, § 21, effective May 24.

28-4-106. Pay - members - employees of state.

All officers and enlisted persons of the Colorado state defense force when on state defense force active duty by order of the governor shall receive the same pay and allowances as are paid to officers and enlisted persons of like rank or grade in the Army of the United States. Officers and enlisted persons may also voluntarily perform state defense force active duty in an unpaid volunteer status. Regardless of pay status, the officers and enlisted persons of the Colorado state defense force shall be construed to be employees of the state of Colorado, and, in the event that any such officer or enlisted person incurs injuries or becomes sick, diseased, or deceased while on active duty under orders of the governor of the state of Colorado, he or she shall be entitled to all of the benefits of the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., accruing to employees of the state of Colorado.

Source: L. 43: p. 441, § 5. **CSA:** C. 111, § 127. **CRS 53:** § 94-7-5. **C.R.S. 1963:** § 94-2-5. **L. 86:** Entire section amended, p. 1018, § 14, effective May 3. **L. 90:** Entire section amended, p. 571, § 60, effective July 1. **L. 2002:** Entire section amended, p. 592, § 22, effective May 24.

28-4-107. Equipment - buildings.

For the use of such forces, the governor is authorized to requisition from the secretary of defense such arms and equipment as may be in possession of and can be spared by the defense department, to make available to such forces the facilities of state armories and their equipment and such other state premises and property as may be required, to lease office rooms and barracks and employ such clerical, medical, and other forces as necessary to carry out the provisions of this article, and to set the pay of such clerical, medical, and other forces.

Source: L. 43: p. 441, § 6. **CSA:** C. 111, § 128. **CRS 53:** § 94-7-6. **C.R.S. 1963:** § 94-2-6.

28-4-108. Service outside state.

(1) Such forces shall not be required to serve outside the boundaries of the state except that:

(a) Upon the request of the governor of another state, the governor of this state, in his or her discretion, may order any portion or all of such forces to assist the military or police forces of such other state who are actually engaged in defending such other state. These forces may be recalled by the governor at his or her discretion.

(b) Any organization, unit, or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, terrorists, enemies, or enemy forces beyond the borders of this state into another state until such are apprehended or captured by such organization, unit, or detachment or until the military or police forces of the other state or forces of the United States have had an opportunity to take up the pursuit or to apprehend or capture such persons, if such other state has given authority by law for such pursuit by the forces of this state. Any such person who is apprehended or captured in such other state by an organization, unit, or detachment of the forces of this state, without unnecessary delay, shall be surrendered to the military or police forces of the state in which he or she is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such person for any crime committed in this state.

Source: L. 43: p. 441, § 7. **CSA:** C. 111, § 129. **CRS 53:** § 94-7-7. **C.R.S. 1963:** § 94-2-7. **L. 2002:** Entire section amended, p. 592, § 23, effective May 24.

28-4-109. Forces of other states - privilege.

Any military forces or organizations, units, or detachments thereof of another state who are in fresh pursuit of insurrectionists, saboteurs, terrorists, enemies, or enemy forces may continue

such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons within this state while in fresh pursuit. Any such person who is captured or arrested by the military forces of such other state while in this state, without unnecessary delay, shall be surrendered to the military or police forces of this state to be dealt with according to law. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, and nothing contained in this section shall be deemed to repeal any of the provisions of sections 16-3-104 and 16-3-106, C.R.S.

Source: L. 43: p. 442, § 8. **CSA:** C. 111, § 130. **CRS 53:** § 94-7-8. **C.R.S. 1963:** § 94-2-8. **L. 2002:** Entire section amended, p. 592, § 24, effective May 24.

28-4-110. Federal service.

Nothing in this article shall be construed as authorizing such forces, or any part thereof, to be called, ordered, or in any manner drafted as such into the military service of the United States, but no person shall by reason of his or her enlistment or commission in any such forces be exempted from military service under any law of the United States.

Source: L. 43: p. 442, § 9. **CSA:** C. 111, § 131. **CRS 53:** § 94-7-9. **C.R.S. 1963:** § 94-2-9. **L. 2002:** Entire section amended, p. 621, § 124, effective May 24.

28-4-111. Civil groups not enlisted as units.

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

Source: L. 43: p. 443, § 10. **CSA:** C. 111, § 132. **CRS 53:** § 94-7-10. **C.R.S. 1963:** § 94-2-10.

28-4-112. Citizenship a qualification.

No person shall be commissioned or enlisted in such forces who is not a citizen of the United States.

Source: L. 43: p. 443, § 11. **CSA:** C. 111, § 133. **CRS 53:** § 94-7-11. **C.R.S. 1963:** § 94-2-11.

28-4-113. Oath of officers.

The oath to be taken by officers commissioned in such force shall be substantially in the form prescribed for officers of the National Guard, substituting the words "Colorado state defense force" where necessary.

Source: L. 43: p. 443, § 12. **CSA:** C. 111, § 134. **CRS 53:** § 94-7-12. **C.R.S. 1963:** § 94-2-12. **L. 86:** Entire section amended, p. 1018, § 15, effective May 3.

28-4-114. Enlistment period - oath.

The period of enlistment shall be as specified in department of military and veterans affairs policies and procedures. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted men and women of the National Guard, substituting the words "Colorado state defense force" where necessary.

Source: L. 43: p. 443, § 13. **CSA:** C. 111, § 135. **CRS 53:** § 94-7-13. **C.R.S. 1963:** § 94-2-13. **L. 86:** Entire section amended, p. 1018, § 16, effective May 3. **L. 2002:** Entire section amended, p. 593, § 25, effective May 24. **L. 2021:** Entire section amended, (SB 21-266), ch. 423, p. 2804, § 29, effective July 2.

28-4-115. Articles of war.

(1) (Deleted by amendment, L. 2002, p. 593, § 26, effective May 24, 2002.)

(2) No officer or enlisted person of such force shall be arrested on any warrant while going to, remaining at, or returning from a place where he or she is ordered to attend military duty; except that nothing in this article shall be construed to prevent that person's arrest by order of a military officer or for a crime committed while not in actual performance of that person's state defense force active duty. Every officer and enlisted person of such force, during his or her service therein, shall be exempt from service upon any posse comitatus and from jury duty.

(3) When any member of the state defense force is on state defense force active duty, whether in paid or volunteer status, the individual is subject to the provisions of the "Colorado Code of Military Justice", as set forth in article 3.1 of this title.

Source: L. 43: p. 443, § 14. **CSA:** C. 111, § 136. **CRS 53:** § 94-7-14. **C.R.S. 1963:** § 94-2-14. **L. 86:** Entire section amended, p. 1018, § 17, effective May 3. **L. 2002:** Entire section amended, p. 593, § 26, effective May 24.

ARTICLE 4.5

Report on the Value of United States Military Activities in the State

28-4.5-101. (Repealed)

Editor's note: (1) This article 4.5 was added in 2014 and was not amended prior to its repeal in 2016. For the text of this article 4.5 prior to 2016, consult the 2015 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Subsection (7) provided for the repeal of this article, effective July 1, 2016. (See L. 2014, p. 658.)

ARTICLE 4.7

USS Colorado

28-4.7-101. (Repealed)

Editor's note: (1) This article 4.7 was added in 2017 and was not amended prior to its repeal in 2018. For the text of this article 4.7 prior to 2018, consult the 2017 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Subsection (3) provided for the repeal of this article 4.7, effective July 1, 2018. (See L. 2017, p.1763.)

VETERANS

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PART 1

GENERAL PROVISIONS

28-5-100.3. Definitions.

As used in this article 5, unless the context otherwise requires:

(1) "Discharged LGBT veteran" means a person who the state board of veterans affairs determines to be a discharged LGBT veteran pursuant to section 28-5-103.

(2) "Veteran" means a person who served in the active military, naval, or air service of the United States and who was discharged or released under conditions other than dishonorable, in accordance with U.S.C. title 38, as amended.

Source: L. 2016: Entire section added, (HB 16-1125), ch. 38, p. 95, § 2, effective August 10. **L. 2021:** Entire section amended, (SB 21-026), ch. 42, p. 174, § 3, effective November 11.

Cross references: (1) For the legislative declaration in HB 16-1125, see section 1 of chapter 38, Session Laws of Colorado 2016.

(2) For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-101. Military discharges recorded free.

For the purpose of preserving a record of men and women who served with the armed forces of the United States and who are now or may become residents of Colorado, the clerk and recorders of the various counties of the state are directed to record discharges for such men and women without charging any fees therefor.

Source: L. 45: p. 641, § 1. **CSA:** C. 150, § 62. **CRS 53:** § 143-4-1. **C.R.S. 1963:** § 144-4-1.

28-5-102. Identity documents - veteran identifier.

A driver's license or identification card, issued under article 2 of title 42, C.R.S., that identifies the holder as a veteran is sufficient documentation that a person is a veteran for the purposes of any benefit or preference given to veterans by the state of Colorado or any political subdivision of Colorado.

Source: L. 2013: Entire section added, (HB 13-1119), ch.177, p. 654, § 3, effective August 7.

28-5-103. Discharged LGBT veteran.

(1) (a) A person is a discharged LGBT veteran if the person, as determined by the board of veterans affairs, was discharged from the armed services due to the person's sexual orientation or gender identity or gender expression; or statements, consensual sexual conduct, or consensual acts relating to sexual orientation or gender identity or gender expression unless the statements, conduct, or acts are prohibited by the uniform code of military justice on grounds other than the person's sexual orientation, gender identity, or gender expression; or the disclosure of statements, conduct, or acts relating to sexual orientation or gender identity or gender expression that were prohibited by the armed services at the time of discharge.

(b) Notwithstanding subsection (1)(a) of this section, a person who received a dishonorable discharge, bad conduct discharge, or, if the person was an officer, a dismissal from the armed services is not eligible to be a discharged LGBT veteran.

(2) Upon application, and in accordance with the process established by the division of veterans affairs pursuant to this section, the board of veterans affairs shall determine whether a person is a discharged LGBT veteran.

(3) (a) The division of veterans affairs shall establish a consistent and uniform process to determine whether a person is a discharged LGBT veteran, including, at a minimum, standards for verifying the person's status as a discharged LGBT veteran.

(b) (I) The process must require a person applying for classification as a discharged LGBT veteran to submit a copy of the person's DD214 form issued by the United States government, a personal affidavit of the circumstances surrounding the discharge, and any relevant records pertaining to the discharge.

(II) A person who does not have the documents described in subsection (3)(b)(I) of this section is not automatically disqualified from being classified as a discharged LGBT veteran. If the person does not have the documents, the person must submit an affidavit certifying that the person does not have the documents.

(c) The division of veterans affairs shall establish a method for a person determined by the board of veterans affairs to be a discharged LGBT veteran to demonstrate status as a discharged LGBT veteran.

Source: L. 2021: Entire section added, (SB 21-026), ch. 42, p. 173, § 2, effective November 11.

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-104. State veterans benefits - effect of individual unemployability status.

For the purpose of determining eligibility for any veterans benefit offered by the state, a veteran who has individual unemployability status, as determined by the United States department of veterans affairs, shall be treated equivalently to a veteran who has a service-connected disability that has been rated as one hundred percent permanent disability by the United States department of veterans affairs.

Source: L. 2023: Entire section added, (HB 23-1052), ch. 131, p. 498, § 2, effective January 1, 2025 (see editor's note).

Editor's note: Section 11(3) of chapter 131 (HB 23-1052), Session Laws of Colorado 2023, provides that this section takes effect January 1, 2025, only if, at the November 2024 statewide election, the people approve a constitutional amendment to section 3.5 (1.5) of article X of the state constitution that modifies the definition of "disabled veteran" by changing the term to "veteran with a disability" and including a veteran who has individual unemployability status as determined by the United States department of veterans affairs. The ballot issue, referred to voters as Amendment G (see L. 2025, p. 3631), was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 2,212,022

AGAINST: 812,638

Cross references: For the legislative declaration in HB 23-1052, see section 1 of chapter 131, Session Laws of Colorado 2023.

PART 2

UNIFORM VETERANS' GUARDIANSHIP LAW

28-5-201. Short title.

This part 2 shall be known and may be cited as the "Uniform Veterans' Guardianship Act".

Source: L. 45: p. 660, § 21. **CSA:** C. 150, § 55 (21). **CRS 53:** § 143-3-21. **C.R.S. 1963:** § 144-3-21.

ANNOTATION

Law reviews. For article, "Uniform State Laws of Interest to Colorado Probate Lawyers", see 14 Colo. Law. 1961 (1985).

28-5-202. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Administrator" means the administrator of veterans' affairs of the United States or his or her successor.

(2) "Benefits" means all moneys paid or payable by the United States through the veterans administration.

(3) "Estate" means income on hand and assets acquired partially or wholly with income.

(4) "Guardian" means any fiduciary for the person or estate of a ward.

(5) "Income" means moneys received from the veterans administration and revenue or profit from any property wholly or partially acquired therewith.

(6) "Person" means an individual, a partnership, a corporation, or an association.

(7) "Veterans administration" means the veterans administration, its predecessors, or its successors.

(8) "Ward" means a beneficiary of the veterans administration.

Source: L. 45: p. 652, § 1. **CSA:** C. 150, § 55 (1). **CRS 53:** § 143-3-1. **C.R.S. 1963:** § 144-3-1. **L. 2002:** (1) amended, p. 621, § 125, effective May 24.

ANNOTATION

Law reviews. For article, "Estates of Insane Veterans and War Orphans", see 17 Dicta 38 (1940). For article, "Problems in the Administration of the Estates of Incompetents", see 29 Dicta 286 (1952).

28-5-203. Administrator as party in interest.

The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward and in any suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits paid by the veterans administration. Not less than fifteen days prior to hearing in such matter, notice in writing of the time and place thereof shall be given by mail, unless waived in writing, to the office of the veterans administration having jurisdiction over the area in which any such suit or any such proceeding is pending.

Source: L. 45: p. 653, § 2. **CSA:** C. 150, § 55 (2). **CRS 53:** § 143-3-2. **C.R.S. 1963:** § 144-3-2.

28-5-204. Guardian appointed when necessary.

When, pursuant to any law of the United States or regulation of the veterans administration, it is necessary, prior to payment of benefits, that a guardian be appointed, the appointment may be made in the manner provided in this part 2.

Source: L. 45: p. 653, § 3. **CSA:** C. 150, § 55 (3). **CRS 53:** § 143-3-3. **C.R.S. 1963:** § 144-3-3.

28-5-205. Limitation on number of wards.

No person other than a bank or trust company shall be guardian of more than five wards at one time, unless all the wards are members of one family. Upon presentation of a petition by an attorney of the veterans administration or other interested person alleging that a guardian is acting in a fiduciary capacity for more than five wards as provided in this section and requesting his or her discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge him or her from guardianships in excess of five and forthwith appoint a successor.

Source: L. 45: p. 653, § 4. **CSA:** C. 150, § 55 (4). **CRS 53:** § 143-3-4. **C.R.S. 1963:** § 144-3-4. **L. 2002:** Entire section amended, p. 621, § 126, effective May 24.

28-5-206. Appointment of guardian - petition.

(1) A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized by law to file a petition. If there is no person so authorized or if the person so authorized refuses or fails to file such a petition within thirty days after mailing of notice by the veterans administration to the last-known address of the person, if any, indicating the necessity for the same, a petition for appointment may be filed by any resident of this state.

(2) The petition for appointment shall set forth the name, age, and place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the veterans administration and shall set forth the amount of money then due and the amount of probable future payments.

(3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation, and address of the proposed guardian, and if the nominee is a natural person, the number of wards for whom the nominee is presently acting as guardian. Notwithstanding any law as to priority of persons entitled to appointment or the nomination in the petition, the court may appoint some other individual or a bank or trust company as guardian if the court determines it is for the best interest of the ward.

(4) In the case of a mentally incompetent ward, the petition shall show that such ward has been rated incompetent by the veterans administration on examination in accordance with the laws and regulations governing the veterans administration.

Source: L. 45: p. 653, § 5. **CSA:** C. 150, § 55 (5). **CRS 53:** § 143-3-5. **C.R.S. 1963:** § 144-3-5.

28-5-207. Evidence of necessity for guardian of infant.

Where a petition is filed for the appointment of a guardian for a minor, a certificate of the administrator or his or her authorized representative setting forth the age of such minor as shown by the records of the veterans administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the veterans administration shall be prima facie evidence of the necessity for such appointment.

Source: L. 45: p. 654, § 6. **CSA:** C. 150, § 55 (6). **CRS 53:** § 143-3-6. **C.R.S. 1963:** § 144-3-6. **L. 2002:** Entire section amended, p. 622, § 127, effective May 24.

28-5-208. Evidence of necessity for guardian for incompetent.

Where a petition is filed for the appointment of a guardian for a mentally incompetent ward, a certificate of the administrator or his or her duly authorized representative that such person has been rated incompetent by the veterans administration on examination in accordance with the laws and regulations governing the veterans administration and that the appointment of a guardian is a condition precedent to the payment of any moneys due such ward by the veterans administration shall be prima facie evidence of the necessity for such appointment.

Source: L. 45: p. 654, § 7. **CSA:** C. 150, § 55 (7). **CRS 53:** § 143-3-7. **C.R.S. 1963:** § 144-3-7. **L. 2002:** Entire section amended, p. 622, § 128, effective May 24.

28-5-209. Notice of filing petition.

Upon the filing of a petition for the appointment of a guardian under this part 2, notice shall be given to the ward and to such other persons in such manner as is provided by the laws of this state, and also to the veterans administration as provided by this part 2.

Source: L. 45: p. 654, § 8. **CSA:** C. 150, § 55 (8). **CRS 53:** § 143-3-8. **C.R.S. 1963:** § 144-3-8.

28-5-210. Bond of guardian.

(1) Upon the appointment of a guardian, he or she shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income of the ward during the ensuing year. The bond shall be in the form and be conditioned as required of guardians appointed under the general guardianship laws of this state. The court may from time to time require the guardian to file an additional bond.

(2) Where a bond is tendered by a guardian with personal sureties, there shall be at least two such sureties, and they shall file with the court a certificate under oath which describes the property owned, both real and personal, and shall state that each is worth the sum named in the bond as the penalty thereof over and above all his or her debts and liabilities and the aggregate of other bonds on which he or she is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate.

Source: L. 45: p. 654, § 9. **CSA:** C. 150, § 55 (9). **CRS 53:** § 143-3-9. **C.R.S. 1963:** § 144-3-9. **L. 2002:** Entire section amended, p. 129, § 622, effective May 24.

28-5-211. Accounts of securities - notices and hearings.

(1) Every guardian who has received or who shall receive on account of his or her ward any moneys or other thing of value from the veterans administration shall file with the court annually, on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true, and accurate account under oath of all moneys or other things of value so received by him or her, all earnings, interest, or profits derived therefrom, and all property acquired therewith and of all disbursements therefrom, and showing the balance thereof in his or her hands at the date of the account and how invested.

(2) The guardian, at the time of filing any account, shall exhibit all securities or investments held by him or her to an officer of the bank or other depository wherein said securities or investments are held for safekeeping, or to an authorized representative of the corporation which is surety on his or her bond, or to the judge or clerk of a court of record in this state, or, upon request of the guardian or other interested party, to any other reputable person designated by the court, who shall certify in writing that he or she has examined the securities or investments and identified them with those described in the account and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. That certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount on deposit, shall

be prepared and signed in duplicate, and one of each shall be filed by the guardian with his or her account.

(3) At the time of filing in the court any account, a certified copy thereof and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the veterans administration having jurisdiction over the area in which the court is located. A signed duplicate or a certified copy of any petition, motion, or other pleading pertaining to an account or to any matter other than an account and which is filed in the guardianship proceedings shall be furnished by the person filing the same to the proper office of the veterans administration. Unless hearing is waived in writing by the attorney of the veterans administration and by all other persons, if any, entitled to notice, including the surety on the guardian's bond, the court shall fix a time and place for the hearing on the account, petition, motion, or other pleading not less than fifteen days nor more than thirty days from the date same is filed, unless a different available date is stipulated in writing. Unless waived in writing, written notice of the time and place of hearing shall be given the veterans administration office concerned and the guardian and any others entitled to notice not less than fifteen days prior to the date fixed for the hearing. The notice may be given by mail, in which event it shall be deposited in the mails not less than fifteen days prior to said date. The court or clerk thereof shall mail to said veterans administration office a copy of each order entered in any guardianship proceeding wherein the administrator is an interested party.

(4) If the guardian is accountable for property derived from sources other than the veterans administration, he or she shall be accountable as is or may be required under the applicable law of this state pertaining to the property of minors or persons of unsound mind who are not beneficiaries of the veterans administration and as to such other property shall be entitled to the compensation provided by such law. The account for other property may be combined with the account filed in accordance with this section.

Source: L. 45: p. 655, § 10. **CSA:** C. 150, § 55 (10). **CRS 53:** § 143-3-10. **C.R.S. 1963:** § 144-3-10. **L. 2002:** (1), (2), and (4) amended, p. 622, § 130, effective May 24.

ANNOTATION

Law reviews. For article, "Problems in the Administration of Estates of Mental Incompetents", see 29 Dicta 286 (1952).

28-5-212. Penalty for failure to account.

If any guardian fails to file with the court any account as required by this part 2, or by an order of the court, when any account is due or within thirty days after citation issues as provided by law, or fails to furnish the veterans administration a true copy of any account, petition, or pleading as required by this part 2, such failure may in the discretion of the court be a ground for his or her removal.

Source: L. 45: p. 656, § 11. **CSA:** C. 150, § 55 (11). **CRS 53:** § 143-3-11. **C.R.S. 1963:** § 144-3-11. **L. 2002:** Entire section amended, p. 623, § 131, effective May 24.

28-5-213. Compensation of guardians.

Compensation payable to guardians shall be based upon services rendered and shall not exceed five percent of the amount of income received during the period covered by the account; except that such percentage compensation shall not be allowed on the moneys or other assets received from a prior guardian nor upon the amount received from liquidation of loans or other investments. In the event five percent of income received during the period would be less than twenty-five dollars and the personal property in the estate totals not more than one thousand five hundred dollars, twenty-five dollars may be taken as the guardian's compensation. If the personal property in the estate exceeds one thousand five hundred dollars and five percent of the income would be less than fifty dollars, the guardian's compensation may be fifty dollars. In any case in which the compensation under the foregoing appropriate rates is inadequate because of extra services performed, the court, upon petition and hearing thereon, may authorize reasonable additional compensation. A copy of the petition and notice of hearing thereon shall be given the proper office of the veterans administration in the manner provided in the case of hearing on a guardian's account or other pleading.

Source: L. 45: p. 656, § 12. **CSA:** C. 150, § 55 (12). **CRS 53:** § 143-3-12. **C.R.S. 1963:** § 144-3-12. **L. 65:** p. 1232, § 1.

28-5-214. Investments.

Every guardian shall invest the surplus funds of his or her ward's estate in such securities or property as authorized under the laws of this state, but only upon prior order of the court; except that the funds may be invested, without prior court authorization, in direct unconditional interest-bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or

certified copy of the petition for authority to invest shall be furnished the proper office of the veterans administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

Source: L. 45: p. 657, § 13. **CSA:** C. 150, § 55 (13). **CRS 53:** § 143-3-13. **C.R.S. 1963:** § 144-3-13. **L. 2002:** Entire section amended, p. 623, § 132, effective May 24.

Cross references: For fiduciary investments, see part 3 of article 1 of title 15.

ANNOTATION

Law reviews. For article, "The 'Prudent Man Rule' Now Applies to Investments by Fiduciaries", see 28 Dicta 213 (1951).

28-5-215. Maintenance and support.

A guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward, except upon petition to and prior order of the court after a hearing. A signed duplicate or certified copy of said petition shall be furnished the proper office of the veterans administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account or other pleading.

Source: L. 45: p. 657, § 14. **CSA:** C. 150, § 55 (14). **CRS 53:** § 143-3-14. **C.R.S. 1963:** § 144-3-14.

28-5-216. Purchase of home for ward.

(1) The court may authorize the purchase of the entire fee simple title to real estate in this state in which the guardian has no interest, but only as a home for the ward, or to protect his or her interest, or as a home for his or her dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished the proper office of the veterans administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

(2) Before authorizing such investment, the court shall require written evidence of value and of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section does not limit the right of the guardian on behalf of his or her ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such is necessary to protect the ward's interest and upon prior order of the court in which the guardianship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from cotenants the entire undivided interests held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

Source: L. 45: p. 657, § 15. **CSA:** C. 150, § 55 (15). **CRS 53:** § 143-3-15. **C.R.S. 1963:** § 144-3-15. **L. 2002:** Entire section amended, p. 624, § 133, effective May 24.

28-5-217. Copies of public records to be furnished.

When a copy of any public record is required by the veterans administration to be used in determining the eligibility of any person to participate in benefits made available by the veterans administration, the official custodian of such public record, without charge, shall provide the applicant for such benefits or any person acting on his or her behalf or the authorized representative of the veterans administration with a certified copy of such record.

Source: L. 45: p. 658, § 16. **CSA:** C. 150, § 55 (16). **CRS 53:** § 143-3-16. **C.R.S. 1963:** § 144-3-16. **L. 2002:** Entire section amended, p. 624, § 134, effective May 24.

28-5-218. Discharge of guardian - release of sureties.

A certificate by the veterans administration showing that a minor has attained majority or that an adult ward has been rated competent by the veterans administration upon examination made in accordance with the law shall be prima facie evidence that the minor has attained majority or that the adult ward's property no longer requires court supervision. Upon hearing after notice as provided by this part 2 and the entry of a record determination by the court that the guardianship is to be dispensed with, the guardian shall be directed by the court to file a final account. Upon hearing after notice to the former ward and to the veterans administration as in case of other accounts, upon approval of the final account and upon delivery to the ward of the assets due him or her from the guardian, the guardian shall be discharged and his or her sureties released.

Source: L. 45: p. 658, § 17. **CSA:** C. 150, § 55 (17). **CRS 53:** § 143-3-17. **C.R.S. 1963:** § 144-3-17. **L. 2002:** Entire section amended, p. 624, § 135, effective May 24.

28-5-219. Record not construed as legal adjudication.

Neither the fact that a person has been rated incompetent by the veterans administration nor the fact that a guardian has been appointed for a person under the provisions of this part 2 shall be construed as a legal adjudication of insanity or mental incompetency, unless such person also is or has been adjudicated insane or mentally incompetent by a state court of competent jurisdiction.

Source: L. 45: p. 658, § 18. **CSA:** C. 150, § 55 (18). **CRS 53:** § 143-3-18. **C.R.S. 1963:** § 144-3-18.

28-5-220. Certification or commitment to veterans administration.

(1) When, in any proceeding under the laws of this state for the commitment or certification of a person alleged to have a mental health disorder or otherwise be in need of confinement in a hospital or other institution for his or her proper care, it is determined after such adjudication of the status of such person as may be required by law that commitment or certification to a hospital for treatment of mental health disorders or other institution is necessary for safekeeping or treatment and it appears that the person is eligible for care or treatment by the veterans administration, the court, upon receipt of a certificate from the veterans administration showing that facilities are available and that the person is eligible for care or treatment therein, may commit or certify the person to the veterans administration. Upon commitment or certification, the person, when admitted to any facility operated by such agency within or without this state, is subject to the rules and regulations of the veterans administration. The chief officer of any facility of the veterans administration to which the person is committed or certified, with respect to the person committed or certified, is vested with the same powers as superintendents of state hospitals for mental health disorders within this state with respect to retention of custody, transfer, parole, or discharge as restored to reason.

(2) The judgment or order of certification or commitment by a court of competent jurisdiction of another state or of the District of Columbia certifying or committing a person to the veterans administration for care or treatment has the same force and effect as to the person while in this state as in the jurisdiction in which the court entering the judgment or making the order is situated; and the courts of the certifying or committing state or of the District of Columbia are deemed to have retained jurisdiction of the person so certified or committed for the purpose of inquiring into the person's mental health and of determining the necessity for

continuance of his or her restraint. Consent is given to the application of the law of the certifying or committing state or district in respect to the authority of the chief officer of any facility of the veterans administration to retain custody or transfer, parole, or discharge the person.

(3) Upon receipt of a certificate of the veterans administration that facilities are available for the care or treatment of any person committed or certified to any hospital for persons with mental health disorders or other institution for the care or treatment of persons similarly afflicted and that the person is eligible for care or treatment, the court having jurisdiction may cause him or her to be transferred to the veterans administration for care or treatment. Any person transferred as provided in this section is deemed to be committed or certified to the veterans administration for all purposes as provided in subsection (1) of this section as on original commitment or certification.

Source: L. 45: p. 659, § 19. **CSA:** C. 150, § 55 (19). **CRS 53:** § 143-3-19. **C.R.S. 1963:** § 144-3-19. **L. 2002:** (1) and (2) amended, p. 624, § 136, effective May 24. **L. 2017:** (1) and (3) amended, (SB 17-242), ch. 263, p. 1377, § 297, effective May 25. **L. 2020:** (2) amended, (SB 20-136), ch. 70, p. 285, § 14, effective September 14.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

28-5-221. Liberal construction.

This part 2 shall be so construed to make uniform the law of those states which enact it.

Source: L. 45: p. 660, § 20. **CSA:** C. 150, § 55 (20). **CRS 53:** § 143-3-20. **C.R.S. 1963:** § 144-3-20.

28-5-222. Repeal and modification of prior laws.

Except where inconsistent with this part 2, the laws of this state relating to guardian and ward and the judicial practice relating thereto shall be applicable to such beneficiaries and their estates.

Source: L. 45: p. 660, § 23. **CSA:** C. 150, § 55 (22). **CRS 53:** § 143-3-22. **C.R.S. 1963:** § 144-3-22.

28-5-223. Application.

The provisions of this part 2 relating to surety bonds and the administration of estates of wards shall apply to all "income" and "estate" as defined in section 28-5-202, whether the guardian has been appointed under this part 2 or under any other law of this state, special or general, prior or subsequent to the enactment of this part 2.

Source: L. 45: p. 660, § 24. **CSA:** C. 150, § 55 (23). **CRS 53:** § 143-3-23. **C.R.S. 1963:** § 144-3-23.

PART 3

INVESTMENTS BY VETERANS ADMINISTRATION FIDUCIARIES

Cross references: For legal investments and deposits, see part 6 of article 75 of title 24; for investments under the "Uniform Veterans' Guardianship Act", see § 28-5-214.

28-5-301. Legal investments.

(1) It is lawful for any guardian or conservator of minor or incompetent beneficiaries of the veterans administration to invest the funds of the estate or trust or to permit such funds to remain invested in any of the following:

(a) Bonds or other interest-bearing or noninterest-bearing obligations of the United States of America;

(b) Bonds or other interest-bearing or noninterest-bearing securities, the payment of the principal sum of which and the interest, if any, on which is guaranteed by the United States of America;

(c) Bonds or other interest-bearing or noninterest-bearing securities which are direct general obligations of the state of Colorado or of any school district, local college district, or county therein or of any water or sanitation district or water and sanitation district created under the provisions of article 1 of title 32, C.R.S.;

(d) Bonds or other interest-bearing or noninterest-bearing securities which are direct general obligations of any city and county or incorporated city or town in the state of Colorado which has existed continuously as a lawful corporation for a period of ten years;

(e) Bonds or other interest-bearing or noninterest-bearing securities which are direct general obligations of any other state of the United States of America or any school district, local college district, county, city and county, parish, or incorporated city, town, or village within any other state of the United States of America; if the entire general obligation indebtedness of any such school district, local college district, county, city and county, parish, city, town, or village, including the proportionate share of the general obligation indebtedness of any other subdivisions of such state which have power to levy taxes on the same property, does not at the time of investment exceed fifteen percent of the valuation for assessment of the taxable property therein; if the issuer has existed for at least fifteen years and has not been in default with respect to the principal of any of its general obligation indebtedness at any time within the preceding ten years; if any such issuer, being an incorporated city, city and county, town, or village, has a population of not less than twenty-five hundred people, according to the last preceding federal census; and if the purchase or retention of investments under this paragraph (e) by such fiduciaries acting under the probate jurisdiction of a court is subject to prior approval of such court;

(f) All or any part of issues or series of bonds or notes secured by first lien mortgages or deeds of trust upon real estate situate within the state of Colorado. Such loans shall not exceed fifty percent of the appraised value of the lands, improvements, and water rights, if any, pertaining thereto, but the amount of such loan may equal sixty percent of the appraised value of the land, improvements, and water rights, if any, pertaining thereto if the instruments evidencing such investments contain a requirement for reduction, during each year, of the principal of the loan in an amount equal to at least five percent of the original principal sum. Such loans, when made by such fiduciaries acting under the probate jurisdiction of a court, shall be made in such amounts and for such periods as may be in the best interests of the estate and shall be subject to approval by the court.

(g) State highway fund revenue anticipation warrants of the state of Colorado;

(h) Repealed.

(i) Original and supplemental bonds of the Moffat tunnel improvement district;

(j) Revenue obligations issued to provide, enlarge, or improve electric power or water facilities by any city located in the state of Colorado having a population of not less than twenty-five hundred people at the time of investment if:

(I) The plan under which said obligations were issued provides for the retirement thereof out of the revenue within thirty years from the date of issuance; and

(II) The net revenue from such facility during each of the five years preceding such investment, after provision for ordinary expenses (exclusive of any allowance for depreciation), of operation of the facility, is equal to at least one and one-half times the sum of interest and principal payments due in any year during the remaining life of the issue and like payments due on account of any other issue relating to the same facility;

(k) Bonds of housing authorities issued pursuant to the provisions of article 4 of title 29, C.R.S.;

(l) Improved real property within the state of Colorado if such property at time of purchase is under lease in its entirety, such lease then having an unexpired term of not less than ten years and under which the lessee is obliged to pay taxes, expenses of maintenance, and a rental therein fixed, and the appraised value of the land and improvements is in excess of ten times the net annual rent reserved in the lease; such real property shall be purchased by such fiduciaries acting under the probate jurisdiction of a county court only under order of court;

(m) Time or savings deposits in any state bank or national bank in Colorado which is, at the time the deposit is made, a member of the federal deposit insurance corporation if:

(I) The full amount of the deposit is insured by the federal deposit insurance corporation;

(II) The bank or association agrees to pay interest on the deposit; and

(III) To the extent that the deposit ceases to be insured by the federal deposit insurance corporation, the same is withdrawn or otherwise converted into cash as promptly as the terms of the deposit will permit. Such deposit may be evidenced by an entry in a passbook, or by a certificate of deposit, or in such other manner as is then customary in the community in which the deposit is made.

(n) Notes or bonds secured by mortgage or deed of trust insured pursuant to Title II of the "National Housing Act" if the purchase is made by an approved mortgagee under said "National Housing Act"; except that:

(I) Nothing in this section shall restrict the powers of investment conferred upon any executor, administrator, or trustee by the terms of a will or trust instrument;

(II) Any such fiduciary may retain any real property owned by his or her testate or intestate at date of death or by his or her ward at date of appointment of a guardian or conservator and that any such fiduciary may retain for a reasonable time any real property acquired by him or her by foreclosure of or in satisfaction of a mortgage or trust deed, but if such fiduciary is subject to the probate jurisdiction of the county court, such holding shall not exceed two years unless permitted by order of that court;

(III) Any such fiduciary may purchase or retain any class of property authorized by this section to be purchased or retained, as the case may be, in addition to the investments described

in the will or trust instrument, unless the power to invest in such class of property is expressly or impliedly denied by such will or trust instrument;

(IV) Nothing in this section shall be construed to limit the existing right of such fiduciaries to maintain such demand or time deposits in banks as are required in the ordinary conduct of their business; and

(V) Nothing in this section shall relieve any such fiduciary from the duty of exercising reasonable care in the purchase or retention of investments;

(o) Share, certificate, or savings accounts in any state or federally chartered savings and loan association in Colorado that are insured by the federal deposit insurance corporation or its successor if:

(I) The full amount of the account is insured by the federal deposit insurance corporation or its successor;

(II) The association agrees to pay such dividends on the account as permitted by its charter; and

(III) To the extent that the account ceases to be insured by the federal deposit insurance corporation or its successor, the same is withdrawn or otherwise converted into cash as promptly as the terms of the account will permit. Such account may be evidenced by an entry in a passbook, or by a certificate of investment, or in such other manner as is acceptable to the federal deposit insurance corporation or its successor.

Source: L. 45: p. 322, § 1. **L. 49:** p. 773, § 1. **CSA:** C. 176, § 126(4). **CRS 53:** § 143-8-1. **C.R.S. 1963:** § 144-7-1. **L. 75:** (1)(h) repealed, p. 217, § 56, effective July 16. **L. 81:** (1)(c) amended, p. 1611, § 5, effective July 1. **L. 2002:** (1)(n)(II) amended, p. 625, § 137, effective May 24. **L. 2004:** IP(1)(o), (1)(o)(I), and (1)(o)(III) amended, p. 156, § 72, effective July 1.

Cross references: For the "National Housing Act", see 12 U.S.C. § 1701 et seq.

ANNOTATION

Law reviews. For article, "Practical Administrative Problems in Average-Sized Estates", see 27 Dicta 285 (1950). For article, "The 'Prudent Man Rule' Now Applies to Investments by Fiduciaries", see 28 Dicta 213 (1951).

PART 4

LOANS TO MINOR VETERANS

28-5-401. Loans to minor veterans.

(1) The disability of minority of any person otherwise eligible for guaranty or insurance of a loan pursuant to the "Servicemen's Readjustment Act of 1944", as amended, and of the minor spouse of any eligible veteran, irrespective of his or her age, in connection with any transaction entered into pursuant to said act, as amended, is removed for all purposes in connection with such transaction, including, but not limited to, incurring of indebtedness or obligations, and acquiring, encumbering, selling, releasing, or conveying real or personal property or any interest therein, and litigating or settling controversies arising therefrom if all or a part of any obligations incident to such transaction is guaranteed or insured by the administrator of veterans affairs pursuant to such act. This section shall not be construed to impose any other or greater rights or liabilities than would exist if such person and such spouse were under no such disability.

(2) A certificate purporting to have been signed by the administrator of veterans affairs or his or her duly authorized representative stating that all or a part of any obligations incident to such transaction is guaranteed or insured by the administrator, when recorded in the proper county, shall be prima facie evidence of such action by the administrator and shall prima facie be deemed to have been signed and issued by the administrator or his or her representative pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his or her authority.

(3) Notwithstanding any contrary provisions of law, such veteran or the minor spouse of such veteran shall not, because of his or her age, avoid such contract, conveyance, obligation, or other transaction entered into pursuant to this section, nor shall such veteran, or the minor spouse of such veteran hereafter urge the fact or interpose the defense that he or she is or was a minor in any action arising out of any loan, conveyance, encumbrance, or other transaction made pursuant to this section.

Source: L. 45, 1st Ex. Sess.: p. 64, §§ 1, 2. **L. 47:** pp. 295, 296, §§ 1, 2. **CSA:** C. 18, 40(1). **CRS 53:** § 143-9-1. **C.R.S. 1963:** § 144-8-1. **L. 2002:** Entire section amended, p. 626, § 138, effective May 24.

Cross references: For the "Servicemen's Readjustment Act of 1944", see 38 U.S.C. § 3701 et seq.

PART 5

INTERMENT OF VETERANS

Editor's note: This part 5 was numbered as article 2 of chapter 144, C.R.S. 1963. The substantive provisions of this part 5 were repealed and reenacted in 2002, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 5 prior to 2002, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

28-5-501. Short title.

This part 5 shall be known and may be cited as the "Interment of Deceased Veterans Act of 2002".

Source: L. 2002: Entire part R&RE, p. 240, § 1, effective April 12.

28-5-502. Interment of deceased veterans.

(1) It is the duty of the county commissioners in each county of this state to designate some proper person in each county whose duty it is to cause the decent interment of the bodies of honorably discharged military personnel and discharged LGBT veterans:

(a) (I) Who died without leaving sufficient means to defray funeral expenses; or

(II) Who died leaving a family in indigent circumstances; and

(b) (I) Who served in any branch of the armed forces of the United States during any period of any declared or any undeclared war or other armed hostilities against an armed foreign enemy; or

(II) Who served on active duty in any branch of the armed services in any campaign or expedition for which a campaign badge is authorized.

(2) Burial must not be made in that portion of a cemetery or burial ground used exclusively for the burial of deceased indigent persons. Each county, by resolution of its board of county commissioners, shall establish the maximum expense to the county for each burial, exclusive of any federal funds provided for such purposes. In case the deceased veteran has relatives or

friends who desire to conduct the funeral services, they shall be permitted to do so, and the expenses shall be paid as provided in this section.

Source: L. 2002: Entire part R&RE, p. 240, § 1, effective April 12. **L. 2018:** (2) amended, (HB 18-1142), ch. 65, p. 618, § 4, effective August 8. **L. 2021:** IP(1) amended, (SB 21-026), ch. 42, p. 176, § 10, effective November 11.

Editor's note: This section is similar to former § 28-5-501 as it existed prior to 2002.

Cross references: (1) For the legislative declaration in HB 18-1142, see section 1 of chapter 65, Session Laws of Colorado 2018.

(2) For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-503. Headstone to mark graves.

The county commissioners shall also see that headstones furnished by the veterans administration or furnished on behalf of the veterans described in section 28-5-502 shall be set at the expense of the county. Each county, by resolution of its board of county commissioners, shall establish the maximum expense to the county for setting such headstones.

Source: L. 2002: Entire part R&RE, p. 241, § 1, effective April 12.

Editor's note: This section is similar to former § 28-5-502 as it existed prior to 2002.

28-5-504. County of residence.

If the expenses of burial and setting of headstones are paid by the county in which the deceased person is buried, but such deceased person resided in another county in this state at the time of death, the county of residence shall reimburse such expenses to the county wherein the deceased is buried. Such expenses shall be audited and paid as other accounts are audited and paid by the county.

Source: L. 2002: Entire part R&RE, p. 241, § 1, effective April 12.

Editor's note: This section is similar to former § 28-5-503 as it existed prior to 2002.

28-5-505. Cemetery subdivision - state may acquire and maintain.

The state has authority to acquire, establish, maintain, and improve in any cemetery in the state a suitable subdivision to be used as a burial place for honorably discharged veterans and discharged LGBT veterans. Such subdivision must consist of lots, each of sufficient area to accommodate at least eight interments of deceased veterans. No charge shall be made for burial space in such subdivision.

Source: L. 2002: Entire part R&RE, p. 241, § 1, effective April 12. **L. 2021:** Entire section amended, (SB 21-026), ch. 42, p. 176, § 11, effective November 11.

Editor's note: This section is similar to former § 28-5-504 as it existed prior to 2002.

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-506. Care and custody of cemetery subdivision.

The care, custody, maintenance, improvement, management, and control of the subdivision referred to in section 28-5-505 may be vested by the state in the city, town, city and county, or county where the subdivision is established, but such vestment may also be delegated by the state to a military veteran service organization.

Source: L. 2002: Entire part R&RE, p. 241, § 1, effective April 12.

Editor's note: This section is similar to former § 28-5-509 as it existed prior to 2002.

28-5-507. Veterans service organization stipend - funeral services - process - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Congressionally chartered veterans service organization" means an organization that aids and serves veterans and service members and their dependents and survivors, has been granted a charter by the United States congress through the enactment of a public law, and is included in the list of patriotic and national organizations in 36 U.S.C. sec. 20101, et seq.

(b) "Department" means the department of military and veterans affairs created and existing pursuant to section 24-1-127.

(c) "Local veterans service organization" means an auxiliary, local unit, or division of a congressionally chartered veterans service organization, operating in Colorado.

(2) (a) The department shall pay, subject to available appropriations, up to seventy-five dollars, referred to in this section as a "stipend", to a local veterans service organization for each time the organization provides an honor guard detail to perform any of the following services at the funeral of a deceased honorably discharged veteran:

(I) A basic military funeral honors ceremony, as described in subsection (3)(a) of this section; or

(II) Any other funeral-related services and personnel, including but not limited to pallbearers, rifle teams, and chaplain or religious services.

(b) The department shall pay a seventy-five-dollar stipend to a local veterans service organization for services performed at each funeral but may decrease the amount of the stipend paid for services performed at a second or subsequent funeral when an organization performs services at more than one funeral on the same day. When determining the amount of the stipend for services at a second or subsequent funeral, the department shall consider the actual expenses incurred by the organization and its members for providing the services, including mileage and transportation costs and meals.

(c) In order to receive a stipend for providing services at a funeral, a local veterans service organization must request the stipend pursuant to the process established by the department.

(3) (a) The basic military funeral honors ceremony for a veteran consists of folding and presenting the United States flag to the veteran's family, if family members are available, and playing taps. Taps must be played by a bugler or, if a bugler is not available, by using a high-quality recorded version.

(b) If the local veterans service organization provides a student to play taps, the organization may pay some or all of the seventy-five dollars to the student.

(4) On or before January 15, 2022, the department shall create a process for a local veterans service organization to apply for and receive a stipend. In addition to any other requirements, the process must require the organization to:

(a) Request the stipend within fifteen days after providing the funeral services;

(b) Provide the name of the deceased veteran for which the services were performed;

(c) Describe the services performed; and

(d) If the organization is seeking a stipend for services performed at a second or subsequent funeral on the same day as another funeral, submit the amount of actual expenses incurred by the organization and its members for providing the services, including mileage and transportation costs and meals.

(5) Repealed.

Source: L. 2021: Entire section added, (SB 21-015), ch. 188, p. 1003, § 2, effective September 7.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2022. (See L. 2021, p. 1005.)

Cross references: For the legislative declaration in SB 21-015, see section 1 of chapter 188, Session Laws of Colorado 2021.

PART 6

COLORADO WAR VETERANS' MEMORIAL COMMISSION

28-5-601 to 28-5-603. (Repealed)

Source: L. 79: Entire part repealed, p. 1628, § 1, effective July 1.

Editor's note: This part 6 was numbered as article 9 of chapter 144, C.R.S. 1963. For amendments to this part 6 prior to its repeal in 1979, consult the Colorado statutory research

explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 7

DIVISION OF VETERANS AFFAIRS

Editor's note: This part 7 was added with relocations in 2002. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration contained in the 2002 act enacting this part 7, see section 1 of chapter 121, Session Laws of Colorado 2002.

28-5-701. Division of veterans affairs - transfer of functions - terminology.

(1) There is created the division of veterans affairs in the department of military and veterans affairs, the head of which is the director of the division of veterans affairs who is appointed by the adjutant general acting in the adjutant general's capacity as the administrative head of the department. The director shall appoint such assistants and clerical employees as may be deemed necessary to effectively administer this part 7 and part 8 of this article 5. The director and such assistants and employees must be appointed pursuant to section 13 of article XII of the state constitution. The division of veterans affairs and the director of the division of veterans affairs are **type 2** entities, as defined in section 24-1-105.

(2) Whenever any law of this state refers to the Colorado department of veterans affairs or to the veterans affairs section, said law shall be construed as referring to the division of veterans affairs.

(3) The division and the board shall, on and after July 1, 2002, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the department of human services pursuant to articles 9 and 10 of title 26, C.R.S., prior to said date. On and after July 1, 2002, any officers or employees of the department of human services whose primary duties were to carry out the functions specified in articles 9 and 10 of title 26, C.R.S., prior to said date and whose duties and functions concerned the duties and functions transferred to the division pursuant to this part 7 and part 8 of this article, and whose employment in the division is deemed necessary by the director to carry out the purposes of this article shall be transferred to the department and become employees thereof. Such employees shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the

state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

(4) (a) On July 1, 2002, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the department of human services prior to said date pertaining to the duties and functions transferred to the division pursuant to this part 7 and part 8 of this title are transferred to the department and become the property thereof.

(b) On or before September 1, 2002, the department of human services and the department of military and veterans affairs shall agree on the method, scope, and procedures for the transfer of any property, mineral, and water rights involving the western slope military veterans cemetery, as described in section 28-5-708, in order to ensure that the use of said cemetery is continuous and consistent with federal law.

(c) The general assembly requests the department of human services and the state board of land commissioners to transfer, without compensation, by any procedure necessary, any appropriate property, mineral, and water rights involving the western slope military veterans' cemetery, as described in section 28-5-708, to the department of military and veterans affairs, within two months of the completion of a legal survey of the property described in section 28-5-708.

(d) The general assembly further requests the department of human services and the state board of land commissioners to report to the state, veterans, and military affairs committees of the senate and house of representatives, or their successor committees, no later than July 15, 2005, that the transfer of appropriate property, mineral, and water rights requested in paragraph (c) of this subsection (4) has been completed.

(5) Whenever the department of human services is referred to or designated by a contract or other document in connection with the duties and functions transferred to the division pursuant to this part 7 and part 8 of this article, such reference or designation shall be deemed to apply to the department of military and veterans affairs. All contracts entered into by the department of human services prior to July 1, 2002, in connection with the duties and functions transferred to the department of military and veterans affairs pursuant to this part 7 and part 8 of this article are hereby validated, with the department of military and veterans affairs succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the department for the payment of such obligations.

Source: L. 2002: Entire part added with relocations, p. 344, § 3, effective July 1. **L. 2005:** (4)(c) and (4)(d) added, p. 1032, § 1, effective June 2. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3417, § 189, effective August 10.

Editor's note: This section is similar to former § 26-10-101 as it existed prior to 2002.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

28-5-702. Board of veterans affairs.

(1) The Colorado board of veterans affairs and its powers, duties, and functions are transferred from the department of human services to the department of military and veterans affairs. The board shall advise and consult with the division in the administration and enforcement of this article 5. The Colorado board of veterans affairs is a **type 2** entity, as defined in section 24-1-105.

(2) The board consists of seven members appointed by the governor and confirmed by the senate, who shall be veterans who have been honorably released or separated from the armed forces of the United States, but who need not be members of a veterans service organization. The governor shall appoint members for terms of four years; except that the terms shall be staggered so that no more than four members' terms expire in the same year. Terms begin the day after the expiration of a preceding term. Vacancies occurring during any term shall be filled by the governor for the unexpired portion of the term in which they occur. If a vacancy occurs while the senate is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the next meeting of the senate, at which time the governor shall nominate a person to fill the vacancy, which nomination shall be subject to senate confirmation. Members of the board shall hold office until their successors are appointed by the governor. Not more than four of the members serving at any one time shall be members of the same political party.

(3) The members of the board shall serve without compensation but may be reimbursed, out of any funds appropriated to the division, for actual and necessary traveling expenses and other expenses incurred in the performance of official duties.

(4) The members of the board shall select one of their members to serve as the chair of the board and one to serve as the vice-chair of the board, for a term of two years for each office. Such officers shall hold office at the pleasure of the board. The board shall also appoint a secretary who may or may not be a member as the board may determine. The secretary shall attend all meetings of the board, keep a full and true record of its proceedings, preserve at its general office all its books, documents, and papers, and perform such other duties as the board may prescribe.

(5) The board shall hold meetings at such times and at such places as shall be determined by it. Special meetings may be called at any time by the chair or vice-chair and shall be called at the request of any three members.

(6) Repealed.

Source: L. 2002: Entire part added with relocations, p. 345, § 3, effective July 1. **L. 2007:** (6) amended, p. 468, § 1, effective July 1. **L. 2017:** (6) repealed, (SB 17-212), ch. 275, p. 1512, § 1, effective June 1. **L. 2022:** (2) amended, (SB 22-013), ch. 2, p. 71, § 94, effective February 25; (1) amended, (SB 22-162), ch. 469, p. 3418, § 190, effective August 10.

Editor's note: This section is similar to former § 26-10-103 as it existed prior to 2002.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

28-5-703. Rules - duties.

(1) (a) The board shall propose for adoption by the adjutant general such rules and regulations, not in conflict with this article or other laws, as it may deem necessary to govern the programs administered pursuant to this article.

(b) Any rules adopted by the board of human services in accordance with the requirements of the "State Administrative Procedure Act", article 4 of title 24, C.R.S., relating to county veterans service offices and veterans affairs other than the veterans community living centers shall be enforceable and shall be valid until amended or repealed by the adjutant general.

(2) The division shall be responsible for the proper administration of this article. The board shall study periodically the problems of veterans and based on such studies shall propose such program or statutory changes as it may deem advisable or necessary for veterans' assistance by the state of Colorado or political subdivisions thereof. The board shall make a continuing study of any program put into effect. The board shall perform such other duties as may be assigned to it by law and shall advise and assist the governor, any department in the executive branch, and the general assembly or any committee thereof in regard to veterans' matters.

(3) Notwithstanding section 24-1-136 (11)(a)(I), on or before December 31, 2002, and on or before December 31 each year thereafter, the board, with the assistance of the division, shall

report on the status of all programs providing services to the state's veterans, including but not limited to any recommendations for changes to policies, procedures, or law, to:

(a) The governor;

(b) The state, veterans, and military affairs committee of the house of representatives; and

(c) The state, veterans, and military affairs committee of the senate.

(4) The board shall serve in an advisory capacity to:

(a) The state board of human services and the department of human services regarding the operations and maintenance of veterans community living centers operated pursuant to article 12 of title 26, C.R.S.;

(b) The division of employment and training in the department of labor and employment regarding the provision of services to state veterans pursuant to the "Colorado Career Advancement Act", part 2 of article 83 of title 8;

(c) The department of revenue regarding the issuance of special license plates to veterans and active or retired military personnel; and

(d) Any department, division, board, or other entity that provides services specifically to state veterans, and any executive director, director, board, or other entity that has rule-making authority pursuant to state law regarding proposed rules that are directed specifically to veterans.

(5) The board shall determine whether a person is a discharged LGBT veteran pursuant to section 28-5-103.

Source: L. 2002: Entire part added with relocations, p. 346, § 3, effective July 1. **L. 2003:** (3)(c) amended, p. 2012, § 105, effective May 22. **L. 2012:** (4)(b) amended, (HB 12-1120), ch. 27, p. 110, § 28, effective June 1. **L. 2013:** (4)(a) amended, (HB 13-1300), ch. 316, p. 1692, § 88, effective August 7. **L. 2014:** (1)(b) and (4)(a) amended, (SB 14-096), ch. 59, p. 274, § 31, effective August 6. **L. 2017:** IP(3) amended, (HB 17-1255), ch. 248, p. 1045, § 1, effective August 9. **L. 2018:** (4)(b) amended, (HB 18-1375), ch. 274, p. 1715, § 66, effective May 29. **L. 2021:** (5) added, (SB 21-026), ch. 42, p. 174, § 4, effective November 11.

Editor's note: (1) This section is similar to former § 26-10-104 as it existed prior to 2002.

(2) The effective date for amendments to subsection (4)(b) by House Bill 12-1120 (chapter 27, Session Laws of Colorado 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of Colorado 2012.)

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-703.5. Notice to revisor of statutes - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1231), ch. 206, p. 1078, § 10, effective May 28. **L. 2024:** Entire section repealed, (HB 24-1450), ch. 490, p. 3423, § 70, effective August 7.

28-5-704. Departments to cooperate.

(1) To effectuate the purpose of this article, the governor may direct any department, division, board, bureau, commission, or agency of the state, or any political subdivision thereof, to:

(a) Cooperate with and assist and advise the division and the board in the performance of their duties and functions under this article and to provide such other assistance and data as will enable the division and the board to properly carry out their activities and effectuate the purposes of this article; and

(b) Coordinate with, seek advice from, or utilize as a resource the division and the board in implementing programs that provide services specifically to state veterans.

Source: L. 2002: Entire part added with relocations, p. 347, § 3, effective July 1.

Editor's note: This section is similar to former § 26-10-105 as it existed prior to 2002.

28-5-705. Duties.

(1) The division, in accordance with its rules, shall perform the following duties and functions:

(a) (I) Formulate, establish, and administer a plan and standard procedures to further prompt and efficient service to all veterans in the state of Colorado on a uniform basis, whether by the division or by any county veterans service office;

(II) Establish and maintain liaison with all county veterans service officers and advise them of such plan and procedures;

(III) Make reasonable requests of such county veterans service officers for their cooperation in the execution of such plan and procedures and in the handling of veterans' cases and other matters;

(IV) Maintain liaison with the veterans administration and other appropriate agencies of the federal government;

(V) Provide all county veterans service officers with pertinent information, suggestions, forms, rulings, and other material in such form and in such manner as the division may deem appropriate to assist all county veterans service officers in the performance of their duties;

(VI) Distribute to such county veterans service officers any available bulletins, manuals, pamphlets, or other appropriate material, prepared either by the division or elsewhere, for the purposes stated in this section; and

(VII) Do such additional things, including the holding of conferences, whenever advisable, with the county veterans service officers either in their counties or in the office of the division or elsewhere and either singly or in groups, as the division may deem advisable to assist such officers in the proper performance of their duties and to keep them properly advised of current developments in the veterans' field;

(b) Render personal service to members and former members, or the surviving spouses, administrators, executors, conservators, guardians, or heirs of members or former members, of the Colorado state defense force and the Colorado National Guard in any claim they may have against the state or federal government;

(c) Assist all discharged members of the armed forces of the United States, the surviving spouses, administrators, executors, conservators, guardians, or heirs of any such veterans, or any other persons who may have proper claims by filing and prosecuting such claims on behalf of such persons for insurance, pensions, compensation, hospitalization, vocational training, education, loans, readjustment allowances, or any other benefits which such persons may be or may become entitled to receive under any of the laws of the United States, the state of Colorado, or any other state by reason of such service;

(d) Cooperate with and assist veterans' organizations, county veterans service officers, veterans' advisory groups, and all other organizations, now in existence or formed on or after July 1, 1973, which provide assistance to those persons mentioned in paragraph (c) of this subsection (1);

(e) Perform services in this state for the veterans administration on a contractual, grant, or other basis, and perform such other duties and render such other services in furtherance of the purposes of this article or any other law in providing reasonable and proper assistance to veterans;

(f) Establish a training and certification program for newly appointed county veterans service officers. Such program shall be presented to the board for approval prior to implementation or modification.

(g) Prepare, develop, construct, and maintain a state military veterans' cemetery pursuant to section 28-5-708 and seek reimbursement from the federal department of veterans affairs for all allowable costs for the project as permitted by federal law; and

(h) Make reasonable efforts to notify members of the armed forces of the United States who are planning their return to civilian life and are located in Colorado, or intend to relocate to Colorado upon discharge, of the requirements in sections 12-20-202 (1)(b), (1)(d), (1)(e), (2), (3), and (4) and 42-2-403.

(i) Establish a consistent and uniform process to determine whether a veteran qualifies as a discharged LGBT veteran, as described in section 28-5-103.

Source: L. 2002: Entire part added with relocations, p. 347, § 3, effective July 1. **L. 2016:** (1)(g) amended and (1)(h) added, (SB 16-134), ch. 195, p. 686, § 2, effective May 27. **L. 2019:** (1)(h) amended, (HB 19-1172), ch. 136, p. 1716, § 206, effective October 1. **L. 2021:** (1)(i) added, (SB 21-026), ch. 42, p. 174, § 5, effective November 11. **L. 2024:** (1)(a)(I) amended, (SB 24-004), ch. 29, p. 89, § 1, effective August 7.

Editor's note: This section is similar to former § 26-10-106 as it existed prior to 2002.

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-706. Contributions to division - veterans private contributions fund - created.

Any city, county, or political subdivision of the state or any association or individual may contribute funds, services, or facilities to the department, and the adjutant general may accept and use such funds, services, or facilities for the purpose or purposes intended by the contributor; except that no fund, service, or facility shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Any said funds shall be transmitted to the state treasurer, who shall credit the same to the veterans private contributions fund, which fund is hereby created.

Source: L. 2002: Entire part added with relocations, p. 349, § 3, effective July 1.

Editor's note: This section is similar to former § 26-10-107 as it existed prior to 2002.

28-5-707. Assistance to county veterans service officers.

(1) (a) The division shall provide satisfactory monitoring, direction, and assistance to all county veterans service officers and shall provide services to the county veterans service officers as the division determines necessary. Out of any money appropriated by the general assembly to the division for support to county veterans service officers, the division shall issue vouchers for the payment to the general fund of a county eligible to receive payment, to be disbursed upon the authority of the county commissioners only for performance of the purposes of this part 7 and part 8 of this article 5.The division shall annually establish the hourly rate of state-funded payments for county veterans service officers who are qualified to serve pursuant to section 28-5-802, based on the available appropriation by the general assembly.

(a.5) Repealed.

(b) If adjacent counties jointly establish a veterans service office for the counties pursuant to section 28-5-801 (2), the division may issue a voucher to the general fund of the county that employs the veterans service officers in an amount equal to the total of the payments that would have been provided to each of the counties pursuant to subsection (1)(a) of this section.

(2) The division shall make the payments described in subsection (1) of this section to the county commissioners upon application by the county commissioners. The county commissioners must submit the application for payment at the time and in the form and manner prescribed by the division.

Source: L. 2002: Entire part added with relocations, p. 349, § 3, effective July 1. **L. 2015:** (1)(a) amended, HB 15-1315, ch. 219, p. 806, § 1, effective July 1. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 89, § 2, effective August 7.

Editor's note: (1) This section is similar to former § 26-10-108 as it existed prior to 2002.

(2) Subsection (1)(a.5)(III) provided for the repeal of subsection (1)(a.5), effective July 1, 2026. (See L. 2024, p. 89.)

28-5-708. Western slope veterans' cemetery - fund - rules.

(1) (a) There is hereby established in the state treasury the western slope military veterans' cemetery fund, referred to in this section as the "fund". The division is authorized to accept and expend gifts, grants, contributions, and donations for the purposes of this section. The fund shall consist of such moneys received through gifts, grants, contributions, or donations, from any person or entity, and any moneys appropriated to the fund by the general assembly. Any interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) Subject to available appropriations, the division may contract for professional services necessary for the implementation of this section.

(2) (a) The general assembly hereby authorizes the establishment and maintenance of a state military veterans' cemetery for the western slope, referred to in this section as the "cemetery". The division is directed to prepare, develop, construct, and maintain such cemetery at the site described in paragraph (b) of subsection (3) of this section. The division may enter into contracts or agreements with any person or public or private entity to prepare, develop, construct, operate, and maintain such cemetery. The cemetery shall be for the purpose of providing for the interment of Colorado residents who are military veterans and their spouses and dependents, as determined by the division. In addition, the adjutant general by rule may permit the interment of other veterans and their spouses and dependents in the cemetery and permit the division to assess a reasonable fee for the interment of such non-Colorado residents. All such fees collected shall be credited to the fund created pursuant to paragraph (a) of subsection (1) of this section. The adjutant general, in consultation with the board, shall promulgate such rules as may be necessary to establish and maintain the cemetery in compliance with applicable state and federal statutes and rules.

(b) The general assembly may appropriate moneys from the general fund to the fund for the implementation of this section, including but not limited to the payment of costs associated with the operation and maintenance of the cemetery.

(c) (I) If the entire general fund appropriation made to the department of human services, for allocation to the division of veterans affairs, for the fiscal year that commenced on July 1, 1999, is not needed to pay the costs for design and construction of the cemetery, the remainder of such appropriation may be used prior to July 1, 2002, by the department of human services and on or after July 1, 2002, by the department to pay any costs associated with the operation and maintenance of the cemetery without further appropriation by the general assembly.

(II) Any appropriation made on and after July 1, 2002, for the operation and maintenance of the cemetery shall be appropriated to the department of military and veterans affairs.

(3) (a) The general assembly hereby finds, determines, and declares that any use of the property described in paragraph (b) of this subsection (3) as the cemetery is for a public purpose expressly authorized by the general assembly and therefore permissible under any grant of right-of-way applicable to such property executed by the state board of land commissioners.

(b) The division, in preparing, developing, constructing, and maintaining the cemetery, may use for such purposes a parcel consisting of approximately twenty acres of unimproved property within the eastern portion of the real property known as the Grand Junction regional center and shall enter into all necessary agreements to secure the appropriate property rights for such parcel.

(4) The division is hereby authorized to provide for surveys, engineering studies, conceptual and architectural plans, environmental impact studies, and other similar preliminary design and construction work as part of the pre-application for funding approval by the federal department of veterans affairs for the cemetery. The division is authorized to seek full reimbursement for such pre-application and design work from the federal department of veterans affairs.

(5) The general assembly shall appropriate annually from the fund to the department, for allocation to the division, for any costs associated with the operation and maintenance of the cemetery and for the implementation of this section.

Source: L. 2002: Entire part added with relocations, p. 349, § 3, effective July 1. **L. 2023:** (1)(a) amended, (HB 23-1053), ch. 16, p. 49, § 1, effective March 10.

Editor's note: This section is similar to former § 26-10-110 as it existed prior to 2002.

28-5-709. Colorado state veterans trust fund - created - report.

(1) (a) There is hereby created in the state treasury the Colorado state veterans trust fund, which consists of the moneys transferred thereto pursuant to subsection (2) of this section. In addition, the state treasurer may credit to the trust fund any public or private gifts, grants, or donations received prior to July 1, 2002, by the department of human services or, on or after July 1, 2002, by the department of military and veterans affairs for implementation of the purposes specified in this subsection (1).

(b) The moneys in the trust fund shall be used for:

(I) Capital improvements or needed amenities for existing or future veterans community living centers;

(I.5) Repealed.

(II) Costs incurred by existing or future state veterans cemeteries;

(III) Costs incurred by the division; and

(IV) Veterans programs operated by nonprofit veterans organizations that meet criteria adopted by the board and that are selected by the board as grant recipients.

(V) Repealed.

(c) The division may retain up to five percent of the amount annually appropriated from the trust fund for the actual costs incurred by the division and the board in implementing the provisions of this article 5. Notwithstanding the provisions of section 24-36-114, all interest derived from the deposit and investment of money in the trust fund shall be credited to the trust fund. All unexpended and unencumbered money remaining in the trust fund at the end of any fiscal year shall remain in the trust fund and shall neither revert to the general fund nor be transferred or credited to any other fund.

(2) (a) Pursuant to section 24-75-1104.5 (1.7)(l), C.R.S., and except as otherwise provided in section 24-75-1104.5 (5), C.R.S., beginning in the 2016-17 fiscal year, and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the state treasurer shall annually transfer to the trust fund one percent of the total amount received by the state pursuant to the provisions of the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year. The state treasurer shall transfer the amount specified in this subsection (2) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(b) Repealed.

(3) (a) (I) All of the funds appropriated to the trust fund pursuant to subsection (2) of this section in fiscal year 2000-01 shall be credited to the trust fund and retained as principal in the trust fund.

(II) For fiscal years 2001-02 through 2005-06, seventy-five percent of the amount of annual appropriations made pursuant to subsection (2) of this section, shall be credited to the trust fund and retained as principal in the trust fund. For fiscal years 2001-02 through 2005-06, twenty-five percent of the amount of annual appropriations made pursuant to subsection (2) of this section, and one hundred percent of any interest earned on the principal in the trust fund shall be subject to annual appropriation by the general assembly and may be allocated by the board for the purposes outlined in subsection (1) of this section.

(III) For fiscal years 2006-07 and 2007-08, seventy-five percent of the amount of the annual transfer made pursuant to subsection (2) of this section shall be credited to the trust fund and retained as principal in the trust fund. For fiscal years 2006-07 and 2007-08, twenty-five percent of the amount of the annual transfer made pursuant to subsection (2) of this section and one hundred percent of any interest earned on the principal in the trust fund shall be subject to annual

appropriation by the general assembly and may be allocated by the board for the purposes outlined in subsection (1) of this section.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (3):

(A) For the 2003-04 through 2006-07 fiscal years, twenty-five percent of the amount of annual transfers made pursuant to subsection (2) of this section shall be credited to the trust fund and retained as principal in the trust fund, and seventy-five percent of the amount of annual transfers made pursuant to subsection (2) of this section and one hundred percent of any interest earned on the principal in the trust fund shall be subject to annual appropriation by the general assembly and may be allocated by the board for the purposes outlined in subsection (1) of this section.

(B) For the 2007-08 fiscal year, thirty-five percent of the amount of the annual transfer made pursuant to subsection (2) of this section shall be credited to the trust fund and retained as principal in the trust fund, and sixty-five percent of the amount of the annual transfer made pursuant to subsection (2) of this section and one hundred percent of any interest earned on the principal in the trust fund shall be subject to annual appropriation by the general assembly and may be allocated by the board for the purposes outlined in subsection (1) of this section.

(C) to (E) (Deleted by amendment, L. 2009, (HB 09-1329), ch. 393, p. 2122, § 1, effective June 2, 2009.)

(II) (Deleted by amendment, L. 2009, (HB 09-1329), ch. 393, p. 2122, § 1, effective June 2, 2009.)

(c) For the 2008-09 fiscal year and each fiscal year thereafter, ten percent of the amount of the annual transfer made pursuant to subsection (2) of this section shall be credited to the trust fund and retained as principal in the trust fund, and ninety percent of the amount of the annual transfer made pursuant to subsection (2) of this section and one hundred percent of any interest earned on the principal in the trust fund shall be subject to annual appropriation by the general assembly.

(3.5) Repealed.

(4) (a) Funds shall be allocated out of the trust fund using the following process:

(I) The director of the state and veterans nursing homes or the director of the division of veterans affairs shall submit to the board a written request for funds to be used for the purposes described in subsection (1) of this section; or

(II) A nonprofit veterans organization, in compliance with the procedures and timelines adopted by the board, shall submit to the board a grant application, in a form adopted by the board, requesting funding for a veterans program.

(b) The board shall vote on each request for funds and on each grant application submitted by a nonprofit veterans organization that meets the criteria established by the board. A majority vote shall be sufficient to approve an allocation of moneys out of the trust fund.

(5) The board shall adopt guidelines that address, at a minimum, the following issues:

(a) The form of an application for use by nonprofit veterans organizations in applying for grants pursuant to this section;

(b) Criteria for identifying nonprofit veterans organizations that may apply for and receive grants pursuant to this section;

(c) Criteria for selecting appropriate veterans programs to receive grants pursuant to this section;

(d) The term and amounts of grants awarded to nonprofit veterans organizations pursuant to this section; and

(e) Standards for determining the effectiveness of veterans programs that receive grants pursuant to this section.

(6) The department may contract with one or more private or public entities for program monitoring and evaluation of any veterans program operated by a nonprofit veterans organization that receives funding pursuant to this section. The board may allocate funds to the division for the costs incurred in entering into such contracts.

(7) (a) The board shall prepare a report evaluating the implementation of this section, including the number and type of improvements or additions to nursing homes that have been made, the number and type of improvements to veterans cemeteries, the number of veterans served through the veterans outreach program, the number and types of veterans programs operated by nonprofit veterans organizations that receive grants pursuant to this section, and the results achieved as a result of allocations made out of the trust fund.

(b) Repealed.

Source: L. 2002: Entire part added with relocations, p. 351, § 3, effective July 1; (1)(a) amended, p. 689, § 4, effective July 1. **L. 2003:** (3.5) added, p. 464, § 6, effective March 5; (1)(b)(III), (2)(a), and (3) amended, p. 2565, § 9, effective June 5. **L. 2004:** (2)(a) amended and (2)(b) repealed, p. 1713, §§ 15, 16, effective June 4. **L. 2005:** (1)(b)(I.5) added, p. 597, § 3, effective July 1. **L. 2006:** (1)(a), (2)(a), (3)(a), and (3)(b)(I) amended, pp. 1040, 1041, §§ 11, 13, effective May 25; (3)(b) amended, p. 1108, § 1, effective May 25; (1)(a) amended, p. 145, § 25, effective August 7. **L. 2008:** (3.5) amended, p. 867, § 1, effective August 5. **L. 2009:** (2)(a) amended, (SB 09-269), ch. 333, p. 1769, § 10, effective June 1; (3)(a)(III), (3)(b)(I)(C), (3)(b)(I)(D), (3)(b)(I)(E), and (3)(b)(II) amended and (3)(c) added, (HB 09-1329), ch. 393, pp.

2122, 2123, §§ 1, 2, effective June 2. **L. 2010:** (1)(b)(III) and (1)(b)(IV) amended and (1)(b)(V) added, (HB 10-1140), ch. 138, p. 463, § 2, effective April 16. **L. 2013:** (1)(b)(I.5) repealed, (HB 13-1300), ch. 316, p. 1692, § 89, effective August 7; (3.5)(c) added, (SB 13-235), ch. 400, p. 2336, §1, effective June 5. **L. 2014:** (1)(b)(I) amended, (SB 14-096), ch. 59, p. 274, § 32, effective August 6. **L. 2015:** (7)(b) repealed, SB 15-189, ch. 104, p. 305, § 7, effective April 16. **L. 2016:** (1)(a) and (2)(a) amended and (3.5) repealed, (HB 16-1408), ch. 153, p 472, §§ 25, 26, effective July 1. **L. 2020:** (1)(c) amended, (HB 20-1380), ch. 170, p. 784, § 5, effective June 29. **L. 2021:** (1)(c) amended, (SB 21-266), ch. 423, p. 2804, § 30, effective July 2.

Editor's note: (1) This section is similar to former § 26-10-111 as it existed prior to 2002.

(2) Amendments to subsection (1)(a) by House Bill 06-1310 and Senate Bill 06-033 were harmonized.

(3) Subsection (1)(b)(V)(B) provided for the repeal of subsection (1)(b)(V), effective July 1, 2012. (See L. 2010, p. 463.)

Cross references: For the legislative declaration contained in the 2005 act enacting subsection (1)(b)(I.5), see section 1 of chapter 168, Session Laws of Colorado 2005. For the legislative declaration in the 2010 act amending subsections (1)(b)(III) and (1)(b)(IV) and adding subsection (1)(b)(V), see section 1 of chapter 138, Session Laws of Colorado 2010.

28-5-710. Board of veterans affairs - world war II memorial dedication - fund - grants - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 688, § 3, effective July 1.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2004. (See L. 2002, p. 688.)

28-5-711. Veterans resource information clearinghouse.

(1) There is hereby created in the division of veterans affairs the veterans resource information clearinghouse to provide information concerning support, services, and other assistance available to veterans of the United States armed forces and their families from state and local government agencies and programs, congressionally chartered veterans organizations,

and nonprofit service organizations. To the extent practicable, the division shall make information available through the veterans resource information clearinghouse in a variety of formats to help ensure a high degree of public accessibility.

(2) The division shall identify the agencies, programs, services, and organizations to be included in the veterans resource information clearinghouse. The department of military and veterans affairs shall adopt policies to establish criteria that the division shall apply to ensure that the nonprofit service organizations included in the clearinghouse are legitimate, legally operated organizations.

(3) The division shall operate the veterans resource information clearinghouse subject to available state and federal resources that are appropriated or otherwise available to the division. In addition, the division may solicit, accept, and expend public or private gifts, grants, and donations for the operation of the veterans resource information clearinghouse, including but not limited to donations of volunteer services and in-kind donations.

Source: L. 2009: Entire section added, (HB 09-1291), ch. 385, p. 2088, § 2, effective August 5.

Cross references: For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 385, Session Laws of Colorado 2009.

28-5-712. Veterans assistance grant program - created - rules - fund - repeal.

(1) There is hereby created in the division of veterans affairs the veterans assistance grant program, referred to in this section as the "program", to provide moneys to nonprofit organizations and governmental agencies that provide services to ensure the health and well-being of veterans of the United States armed forces who live in Colorado, including but not limited to:

(a) Mental health services;

(b) Family counseling services;

(c) Job training;

(d) Employment; and

(e) Housing for homeless veterans.

(2) The adjutant general, in consultation with the board of veterans affairs created in section 28-5-702, shall adopt rules for the administration of the program, including, but not limited to:

(a) Criteria for determining which nonprofit organizations and governmental agencies are eligible to receive money from the program;

(b) Procedures by which eligible nonprofit organizations and governmental agencies may apply for and receive money from the program; and

(c) Criteria and procedures for identifying, consistent with federal department of veterans affairs' guidelines and state needs, underserved veteran populations, including women veterans, with the intent to prioritize allocating program money to improve access to services for underserved veterans.

(3) (a) There is hereby created the veterans assistance grant program cash fund, referred to in this section as the "fund", which shall consist of:

(I) Moneys received by the division as gifts, grants, or donations pursuant to paragraph (d) of this subsection (3); and

(II) Such moneys as are appropriated to the fund by the general assembly.

(b) The money in the fund is subject to annual appropriation to the division by the general assembly for the direct and indirect costs associated with implementing the program. The state treasurer may invest any money in the fund not expended for the purposes of this section as provided by law. The state treasurer shall credit any interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money in the fund at the end of a fiscal year remains in the fund and shall not be credited to any other fund; except that the state treasurer shall transfer all unexpended and unencumbered money in the fund on August 31, 2031, to the general fund.

(c) The division may expend not more than five percent of the moneys annually appropriated to the fund to pay the administrative expenses incurred by the division in administering the program.

(d) The division is authorized to accept gifts, grants, and donations for the purposes described in this section. The division shall transfer each such gift, grant, and donation to the state treasurer, who shall credit the same to the fund.

(e) Notwithstanding subsection (2)(b) of this section, on June 30, 2020, the state treasurer shall transfer one million dollars from the fund to the general fund.

(4) In its annual report before the house and senate committees of reference pursuant to section 2-7-203, the department of military and veterans affairs shall include:

(a) Information describing the grants awarded through the program during the preceding year; and

(b) The criteria used to identify underserved veteran populations and whether and how program money was allocated to meet the needs of underserved veterans.

(5) This section is repealed, effective September 1, 2031. Before its repeal, the department of regulatory agencies shall review the program as described in section 24-34-104.

Source: L. 2014: Entire section added, (HB 14-1205), ch. 265, p. 1063, § 1, effective August 6. **L. 2020:** (3)(e) added, (HB 20-1381), ch. 171, p. 786, § 6, effective June 29. **L. 2024:** (2), (3)(b), (4), and (5) amended, (HB 24-1273), ch. 395, p. 2721, § 2, effective August 7.

28-5-713. Western region one source - veterans one-stop center - advisory board - fund - definition - repeal.

(1) (a) The division of veterans affairs may operate a veterans one-stop center in Grand Junction, known as the "western region one source", for the purpose of providing a central and accessible location where veterans, service members, and their family members in the western portion of the state may have access to assistance and resources. The division shall operate the veterans one-stop center subject to available appropriations from the general assembly. The division may staff the veterans one-stop center with employees of the department of military and veterans affairs, or the division may contract with one or more private vendors for the management of the facility.

(b) Subject to available appropriation to the department of military and veterans affairs for the veterans one-stop center, the department, as a function of the veterans one-stop center, may provide identification cards to eligible military members, retirees, and their family members, which identification cards are issued by the United States department of defense.

(c) As used in this section, "veterans one-stop center" means a facility, known as the "western region one source", where government agencies, nonprofit and advocacy organizations, and other organizations collaborate to offer services for veterans and their families in a convenient central location. Services offered at the veterans one-stop center may include, but are not limited to, assistance for veterans in securing federal benefits, counseling services, employment support, education, life skills, and wellness support.

(2) On or before November 1, 2018, the division of veterans affairs shall establish an advisory board appointed by the adjutant general or his or designee that includes:

(a) A person representing one or more nonprofit organizations in the Grand Junction area;

(b) A county veterans service officer from the western portion of the state;

(c) A veteran from the western portion of the state;

(d) A family member of a veteran from the western portion of the state; and

(e) A representative of an organization that provides services at the veterans one-stop center.

(3) No later than December 31, 2023, the division, in consultation with the advisory board established pursuant to subsection (2) of this section, shall develop procedures for evaluating the effectiveness of the veterans one-stop center. The division shall provide the procedures and the annual results of the procedures to:

(a) The board of veterans affairs; and

(b) The general assembly as part of the annual report of the department of military and veterans affairs before the house and senate committees of reference pursuant to section 2-7-203.

(4) (a) The veterans one-stop center cash fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money generated from the public or private use of the veterans one-stop center, including but not limited to money received by the division as lease payments for the former Grand Junction National Guard armory.

(b) The state treasurer shall invest the money in the fund as described in sections 24-36-109, 24-36-112, and 24-36-113. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and may not be transferred to the general fund or any other fund.

(d) Subject to available appropriation, the department may use the money in the fund or any money in the general fund to pay the costs of operating the veterans one-stop center, which costs may include, but are not limited to, repair and replacement at the veterans one-stop center and salaries involved in the operation, maintenance, repair, and development of the veterans one-stop center.

(e) The division may seek, accept, and expend gifts, grants, and donations of any kind from any public or private source for the purpose of operating the veterans one-stop center; except that the division shall not accept a gift, grant, or donation if any conditions attached thereto are contradictory to law or require expenditures from the general fund that have not been approved by the general assembly.

(f) The state treasurer shall transfer all unexpended and unencumbered money in the fund on September 1, 2030, to the Colorado state veterans trust fund created in section 28-5-709.

(5) This section is repealed, effective September 1, 2030. Before its repeal, the department of regulatory agencies shall review the veterans one-stop center operated by the division pursuant to this section in accordance with section 24-34-104.

Source: L. 2018: Entire section added, (HB 18-1337), ch. 191, p. 1273, § 1, effective April 30. **L. 2023:** (1)(a), (1)(c), IP(3), (4)(f), and (5) amended, (SB 23-154), ch. 129, p. 494, § 2, effective August 7.

28-5-714. Veterans mental health services program - community behavioral health program grants - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Armed forces" means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard of the United States.

(b) "Behavioral health administration" or "BHA" means the behavioral health administration in the department of human services established pursuant to section 27-50-102.

(c) "Division" means the division of veterans affairs in the department of military and veterans affairs.

(d) "Eligible veteran" means a veteran, as defined in section 28-5-100.3, who lives in a veterans community living center, as defined in section 26-12-102.

(e) "Health-care professional" means:

(I) A licensed psychiatrist regulated pursuant to article 240 of title 12;

(II) A licensed psychologist or psychologist candidate regulated pursuant to article 245 of title 12;

(III) A licensed social worker, licensed clinical social worker, or clinical social worker candidate regulated pursuant to article 245 of title 12;

(IV) A licensed marriage and family therapist or marriage and family therapist candidate regulated pursuant to article 245 of title 12;

(V) A licensed professional counselor or licensed professional counselor candidate regulated pursuant to article 245 of title 12;

(VI) A licensed addiction counselor, certified addiction specialist, or addiction counselor candidate regulated pursuant to article 245 of title 12;

(VII) An advanced practice registered nurse licensed pursuant to article 255 of title 12;

(VIII) An acupuncturist licensed pursuant to article 200 of title 12;

(IX) A massage therapist licensed pursuant to article 235 of title 12;

(X) A health-care professional who is certified in the practice of using touch or healing touch to affect the human energy systems; or

(XI) A health-care professional who is certified in craniosacral therapies.

(f) "Service member" means a person who is:

(I) An active-duty member of the armed forces;

(II) A member of the reserve forces of the United States; or

(III) A member of the federally recognized National Guard.

(g) "Telehealth" has the same meaning as set forth in section 10-16-123.

(h) "Veteran" means a person who served in the armed forces, the federally recognized National Guard, or the reserve forces of the United States and who was discharged or released from service.

(2) (a) There is established in the division a veterans mental health services program to promote access to mental health services for eligible veterans by reimbursing health-care professionals for sessions with an eligible veteran.

(b) The division shall reimburse a health-care professional who participates in the veterans mental health services program for mental health-care sessions, either in person or through telehealth, with eligible veterans. Each eligible veteran may receive twenty-six reimbursed sessions per year.

(c) Subject to available appropriations, an eligible veteran may receive and the division shall reimburse a health-care professional for:

(I) Additional reimbursed sessions if a health-care professional determines additional sessions are necessary; and

(II) Complementary behavioral health services, including, but not limited to, acupuncture, healing touch therapy, massage therapy, acupressure, and craniosacral therapy for the purpose of supporting an eligible veteran's mental health when provided by a qualified health-care professional.

(d) To be eligible to participate in and receive reimbursement from the veterans mental health services program, a health-care professional must be available to provide at least four mental health-care sessions to each eligible veteran the health-care professional accepts as a client.

(e) The division shall:

(I) Develop a process consistent with the requirements of this section for health-care professionals to apply for and demonstrate eligibility to receive reimbursement from the veterans mental health services program;

(II) Upon reimbursing a health-care professional for a mental health-care session with an eligible veteran, inform the health-care professional of the veteran's remaining number of sessions eligible for reimbursement that year; and

(III) Determine a reasonable rate of reimbursement for each mental health-care session with an eligible veteran pursuant to the veterans mental health services program, which rate must be the same regardless of whether the appointment is in-person or through telehealth.

(f) The adjutant general, in consultation with the board of veterans affairs, shall adopt rules necessary for the implementation of this subsection (2).

(3) For each state fiscal year, the general assembly shall appropriate money to the division for the purposes of the veterans mental health services program. The first six hundred thousand dollars must be used for eligible veterans.

(4) (a) The BHA shall coordinate with the division to continue and expand the veterans mental health services program using the money transferred pursuant to section 39-37-301 (2)(a)(II) to the behavioral and mental health excise tax cash fund created in section 39-37-302.

(b) The BHA shall post on its website a list of health-care professionals who participate in the veterans mental health services program.

(5) (a) In expanding the veterans mental health services program pursuant to subsection (4)(a) of this section, the BHA shall provide grants to local nonprofit organizations to establish and expand community behavioral health programs that provide behavioral health services to service members, veterans, and family members of service members and veterans.

(b) If a local nonprofit organization receives a grant pursuant to this subsection (5) and the organization continues to meet performance metrics developed by the BHA, the BHA may distribute an additional grant to the local nonprofit organization without requiring the organization to reapply for the grant.

(c) To receive a grant, a local nonprofit organization must submit an application to the BHA in accordance with rules adopted by the commissioner of the BHA.

(d) In its application, a local nonprofit organization shall demonstrate that the organization:

(I) Serves the behavioral health needs of service members, veterans, and family members of service members and veterans in the locality served by the local nonprofit organization;

(II) Utilizes evidence-based practices;

(III) Integrates military cultural competency training for the local nonprofit organization's staff; and

(IV) Has established and verifiable community partnerships to deliver behavioral health services along the continuum of care to service members, veterans, and their family members.

(e) The BHA shall prioritize awarding grants to a grant applicant that:

(I) Applies for a grant to support the operating costs for a qualifying project, as determined by the BHA, for which capital investments have already been made;

(II) Provides culturally competent behavioral health services to service members, veterans, and family members of service members and veterans;

(III) Has the ability to submit data that the BHA determines is necessary to measure the impact of the grant program; and

(IV) Demonstrates a history of collaboration with, and providing services for, military and veterans community organizations in Colorado.

(f) The commissioner of the BHA shall adopt rules as necessary to implement this subsection (5), including performance metrics for local nonprofit organizations that receive a grant.

Source: L. 2023: Entire section added, (HB 23-1088), ch. 201, p. 1028, § 1, effective May 16. **L. 2024:** (2)(d) amended, (HB 24-1349), ch. 423, p. 2901, § 6, effective December 17 (see editor's note). **L. 2025:** Entire section R&RE, (HB 25-1132), ch. 160, p. 643, § 1, effective August 6; (4)(a) amended, (SB 25-295), ch. 330, p. 1714, § 6, effective August 6 (see editor's note).

Editor's note: (1) Section 19(1) of chapter 423 (HB 24-1349), Session Laws of Colorado 2024, provides that changes to this section take effect only if a majority of voters approve the ballot issue referred in accordance with § 39-37-201 at the November 2024 statewide election, and, if the voters approve the ballot issue, the changes to this section take effect on the date of the official declaration of the vote by the governor. The ballot issue, referred to the voters as Proposition KK (see L.2025, p. 3636), was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,675,123

AGAINST: 1,406,112

(2) Section 8(3) of chapter 330 (SB 25-295), Session Laws of Colorado 2025, provides that amendments to subsection (4)(a) of this section take effect only if HB 25-1132 becomes law and

take effect upon the applicable effective date of section 1 of HB 25-1132. HB 25-1132 became law, and section 1 of HB 25-1132 took effect August 6, 2025.

PART 8

VETERANS SERVICE OFFICE AND OFFICERS

Editor's note: This part 8 was added with relocations in 2002. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration contained in the 2002 act enacting this part 8, see section 1 of chapter 121, Session Laws of Colorado 2002.

28-5-801. Establishment of veterans service offices.

(1) The board of county commissioners of each county in this state shall establish a county veterans service office and shall appoint a county veterans service officer for the county to further prompt and efficient service to all veterans in the state of Colorado on a uniform basis. If the board of county commissioners determines that additional county veterans service officers are necessary, the board may authorize the appointed county veterans service officer to hire additional county veterans service officers. A board of county commissioners may also authorize the appointed county veterans service officer to hire any staff as the board determines necessary at a rate of compensation as fixed by the board, together with the necessary and actual traveling and other expenses incurred in their work as approved by the board of county commissioners and other expenses as the board deems necessary for the proper operation of the office, payable monthly out of the county general fund in the manner provided by law. The board of county commissioners, in its discretion, may authorize the appointed county veterans service officer to hire any county officer, official, or employee as a county veterans service officer, if qualified to serve pursuant to the provisions of section 28-5-802, at a rate of additional compensation for additional duties as fixed by the board of county commissioners.

(2) The boards of county commissioners of adjacent counties may act jointly in establishing a veterans service office for such counties and in appointing a veterans service officer, authorizing the hiring of additional county veterans service officers, and authorizing the hiring of staff as determined necessary to operate an office for the counties, at a rate of compensation as fixed by the boards of county commissioners joining in the appointment or authorized hire of an officer or authorized hire of staff, together with the actual and necessary expenses incurred in their work, as approved by the boards of county commissioners. The salaries, expenses, and all other jointly approved expenses necessary for the proper operation of the office must be paid by

the boards of county commissioners out of their respective county general funds in the manner provided by law, each county bearing its share in the proportion that the population of each county bears to the total population of the counties combining to establish the office.

Source: L. 2002: Entire part added with relocations, p. 353, § 3, effective July 1. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 90, § 3, effective August 7.

Editor's note: This section is similar to former § 26-9-101 as it existed prior to 2002.

28-5-802. Qualifications - term of office.

(1) (a) An appointed county veterans service officer at the time of appointment must be a resident of the state, have served in the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard, or any auxiliary branch thereof, and have been honorably discharged or be a discharged LGBT veteran, or be an officer released from active duty with the armed forces and placed on inactive duty. Before an appointment is made, the board of county commissioners making the appointment may seek the advice and counsel of the chief officer of each post of the regularly established and existing veterans organizations of the county where the officer is to serve as to the qualifications and experience of the applicant for the position. The appointee must be well-qualified based on the appointee's education and experience to perform the duties of a county veterans service officer. The division shall recommend education and experience qualifications for the position of a county veterans service officer.

(b) Notwithstanding subsection (1)(a) of this section, a county veterans service officer who is authorized to be hired by the appointed county veterans service officer is not required to have served in the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard, or any auxiliary branch thereof, and is not required to have been honorably discharged or a discharged LGBT veteran, or be an officer released from active duty with the armed forces and placed on inactive duty.

(2) An appointment described in subsection (1) of this section is for a two-year term. At the expiration of the term or in case of a vacancy, the board of county commissioners making the appointment may either reappoint the incumbent to the position of a county veterans service officer or may consider applicants and appoint a county veterans service officer in the manner specified in this article 5.

(3) In order to be eligible to be a county veterans service officer and to serve as a claimant's representative and to assist a veteran claimant with the preparation, presentation, or prosecution of a claim for a United States department of veterans affairs benefit, a person must be certified

by the state in accordance with the training and certification program developed pursuant to section 28-5-705 (1)(f) and accredited by the United States department of veterans affairs pursuant to requirements described in 38 CFR 14.629, as amended.

Source: L. 2002: Entire part added with relocations, p. 354, § 3, effective July 1. **L. 2021:** (1) amended, (HB21-1231), ch. 206, p. 1079, § 11, effective May 28; (1) amended, (SB 21-026), ch. 42, p. 176, § 12, effective November 11. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 91, § 4, effective August 7.

Editor's note: (1) This section is similar to former § 26-9-102 as it existed prior to 2002.

(2) Amendments to subsection (1) by SB 21-026 and HB 21-1231 were harmonized.

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of Colorado 2021.

28-5-803. Duties.

A county veterans service officer shall assist any resident of the state of Colorado who is a veteran, or the surviving spouse, administrator, executor, guardian, conservator, or heir of any veteran, or any other person who may have proper claim, by the filing of claims for insurance, pensions, compensation for disability, hospitalization, vocational training, or any other benefits that the person may be or may have been entitled to receive under the laws of the United States or the state of Colorado by reason of service.

Source: L. 2002: Entire part added with relocations, p. 354, § 3, effective July 1. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 92, § 5, effective August 7.

Editor's note: This section is similar to former § 26-9-103 as it existed prior to 2002.

28-5-804. Cooperation with division of veterans affairs.

A county veterans service officer shall cooperate with the division of veterans affairs, its officers and employees, and other national, state, or county veterans service officers in the performance of the officer's duties. A county veterans service officer, on request, shall assist the

division in every reasonable way, including the rendering of any reports requested by the division and the handling or processing of any veterans cases or other matters according to standard procedures established by the division in furtherance of efficient and prompt service to all veterans in the state of Colorado on a uniform basis. An officer shall always work in the best interest of the officer's clients in an attempt to maximize the amount of federal veteran benefits that they receive. Additionally, the county veterans service officer shall undertake programs and engage in activities to reduce state public assistance expenditures as directed by the division.

Source: L. 2002: Entire part added with relocations, p. 354, § 3, effective July 1. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 92, § 6, effective August 7.

Editor's note: This section is similar to former § 26-9-104 as it existed prior to 2002.

28-5-805. Office space and supplies.

The board of county commissioners shall furnish a county veterans service officer with office space and necessary supplies.

Source: L. 2002: Entire part added with relocations, p. 355, § 3, effective July 1. **L. 2024:** Entire section amended, (SB 24-004), ch. 29, p. 93, § 7, effective August 7.

Editor's note: This section is similar to former § 26-9-105 as it existed prior to 2002.

DIVISION OF AVIATION

ARTICLE 6

Division of Aviation

28-6-101 to 28-6-114. (Repealed)

Source: L. 91: Entire article repealed, p. 1135, § 224, effective July 1.

Editor's note: This article was added in 1988. For amendments to this article prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions relating to the aeronautics division in the department of transportation, see article 10 of title 43.